

BOARD OF TOWN TRUSTEES

TOWN OF SOUTHDOLD

Minutes

Wednesday, October 16, 2013

5:30 PM

Present Were: Jim King, President  
Robert Ghosio, Vice-President  
Dave Bergen, Trustee  
John Bredemeyer, Trustee  
Michael Domino, Trustee  
Elizabeth Cantrell, Clerk Typist  
Lori Hulse, Assistant Town Attorney

CALL MEETING TO ORDER  
PLEDGE OF ALLEGIANCE

NEXT FIELD INSPECTION: Wednesday, November 6, 2013 at 8:00 AM  
NEXT TRUSTEE MEETING: Wednesday, November 13, 2013 at 5:30 PM  
WORKSESSION: Wednesday, November 13, 2013 at 5:00 PM

MINUTES: Approve Minutes of July 17, 2013 and August 21, 2013.  
CALL MEETING TO ORDER

TRUSTEE KING: Good evening everyone. Welcome to our October meeting. Just a few things I would like to go over before we get going. We have had some postponements.

On page six, number three **THOMAS J. APREA** requests an Amendment to Wetland Permit #8085 and Coastal Erosion Permit #8085C to place approximately 300 feet of barrier cloth and approximately 1' in diameter rocks in front of and on top of



existing bulkhead; for the as-built cap-stones on top of existing redi-rock seawall; seawall is 54" above wooden bulkhead to top of cap-stone; for the existing accent lighting along seaward side of bulkhead; install aluminum stairs to beach; and for the as-built +/-2,000 cubic yards of fill landward of seawall. Located: 500 Beach Court, East Marion, has been postponed.

On page seven, number four **ANTHONY & SUSAN NAPOLITANO** request a Wetland Permit and a Coastal Erosion Permit for the existing +/-90' wood bulkhead with associated +/-4.5'x4.3' platform and 32" wide stairs to beach; for existing 5'2"x10'6"x11'10"x12'10"x14" high planter box at eastern edge of property to be planted with native vegetation; existing 10'x11'-12" square block patio non-turf permeable area; existing 12' wide x 60' long area of 3/8" crushed bluestone non-turf permeable area used as a bocce court; and for an area approximately 5'x11'x9'x11' of 12" square patio blocks with an electrical outlet on a post, a water spigot and one pole light. Located: 200 Cleaves Point Road, East Marion, has been postponed.

Page seven, number five, Suffolk Environmental Consulting, Inc., on behalf of **ORIENT WHARF COMPANY, c/o JOHN TUTHILL** requests a Wetland Permit and a Coastal Erosion Permit to dredge roughly 2,150 cubic yards of material in the area surrounding the Orient Yacht Club in order to maintain the navigability of the harbor; dredged material to be placed in a drying container secured to the wharf which will then be removed to an approved upland source. Located: 2110 Village Lane, Orient, has been postponed.

Page eight, number six, Patricia C. Moore, Esq., on behalf of **NICHOLAS YUELYS** requests a Wetland Permit and a Coastal Erosion Permit for the as-built 30.5'x26.2' cement block wall; reinforcement of existing damaged piles under dwelling; and for the existing single family 30.5'x26.2' dwelling with a 19.3'x9.5' landward extension and existing wood decks. Located: 56005 County Road 48, Southold, has been postponed.

And on page ten, Patricia C. Moore, Esq., on behalf of **GREG & CAROL KARAS** requests a Wetland Permit to construct a 15'x25' gunite pool with water feature; extend existing patio approximately 720 sq ft eastward and up to 75' from top of bluff; construct a 4'x8'x4'6" cedar pool equipment enclosure; landscape a 10' area between pool and property line; install 54" pool fence with gates along edge of patio; replace existing 3'x11' landing and 3'x45' bluff stairs to beach in-kind and in-place. Located: 135 Soundview Road, Orient, has been postponed.

Number 13, Michael Kimack on behalf of **DAVID WEILD** requests a Wetland Permit to replace an approximately 2,000 sq ft eroded area, approximately 2-3 feet in depth with hand placed clean sand; slope new edge to an approximate 45 degree angle and hand-stack stones and sand fill; plant flat area with spartina patens 6"-9" on center; and sloped area with spartina alterniflora between stones. Located: 10450 New Suffolk Avenue, Cutchogue, has been postponed.

And number 14, J.M.O. Environmental Consulting on behalf of



**CAROLYN R. AMEEN** requests a Wetland Permit to construct an 8'x38' second-story deck above an existing first floor deck; construct a 10'x12' first floor addition, 5'x7' steps, and a 6'x44' two-story addition onto existing dwelling; construct an 18'x35' pool with pool equipment area on landward side of dwelling; construct a 25'x28' garage; and install gutters to leaders to drywells to contain roof runoff, and in accordance with Chapter 236 of the Town Code. Located: 755 Lupton Point Road, Mattituck, has been postponed. We won't be addressing those tonight.

We have in the audience Bill McDermott from the Conservation Advisory Council sitting in tonight. We have Wayne Galante down here taking down what everyone says. When we get into the public hearings, if there is any testimony, please come to the microphone and identify yourself so he can get your name properly on the record.

We'll set the date for the next field inspection, November 6th, at eight o'clock in the morning.

TRUSTEE BREDEMEYER: So moved.

TRUSTEE BERGEN: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

Our next meeting will be Wednesday, November 13th, at 5:30.

We'll have the work session at 5:00.

TRUSTEE BREDEMEYER: So moved.

TRUSTEE DOMINO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

Do I have a motion to approve the Minutes of July 17th and August 21st, 2013?

TRUSTEE BERGEN: I'll make that motion.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

## **I. MONTHLY REPORT:**

The Trustees monthly report for September 2013. A check for \$12,041.10 was forwarded to the Supervisor's Office for the General Fund.

## **II. PUBLIC NOTICES:**

Public Notices are posted on the Town Clerk's Bulletin Board for review.

## **III. STATE ENVIRONMENTAL QUALITY REVIEWS:**

RESOLVED that the Board of Trustees of the Town of Southold hereby finds that the following applications more fully described in Section VIII Public Hearings Section of the Trustee agenda dated Wednesday, October 16, 2013, are classified as Type II Actions pursuant to SEQRA Rules and Regulations, and are not subject to further review under SEQRA:



Mary S. Zupa – SCTM# 81-1-16.7  
Thomas J. Aprea – SCTM# 37-7-9.1  
William Hands – SCTM# 26-2-21  
Anthony & Susan Napolitano – SCTM# 38-2-33  
John N. Irwin III – SCTM# 4-6-7.4  
Cleaves Point Club and Marina, Inc. – SCTM# 38-7-15  
John Lynch – SCTM# 78-2-28  
Robert & Kathleen Lawrence – SCTM# 103-13-6  
Arthur & Julianne Gruneisel – SCTM# 104-3-7  
Dana & Michael Savino – SCTM# 106-6-37  
Frank Marsilio – SCTM# 115-12-15  
Hugh Murphy – SCTM# 70-6-8  
Joseph Gentile – SCTM# 71-2-8  
Stephen & Amy LiCata – SCTM# 144-5-13  
Robert Tapp & Nicholas J. Ellis – SCTM# 110-7-11.1  
Greg & Carol Karas – SCTM# 15-3-3  
Paradise Point Association – SCTM# 81-1-16.10 & 16.11

TRUSTEE BREDEMEYER: I'll second that.

TRUSTEE KING: All in favor?

(ALL AYES).

#### IV. RESOLUTIONS - ADMINISTRATIVE PERMITS:

TRUSTEE KING: Under resolution and administrative permits, in order to kind of move things along fairly quickly sometimes we'll lump these together if there is no controversy with them. And what I would like to do is take numbers one, two, three and four on page two, and number six on page three and approve those as they have been submitted. There is nothing difficult to worry about. They are listed as follows:

Number one, **ORIENT ACRES, LLC, c/o EVA MALLIS** requests an Administrative Permit to install a +/-3' high two-rail split-rail fence along the full length of the eastern property line and along the western property line from road end landward. Located: 32625 Main Road, Orient.

Number two, Kathleen Neumann on behalf of **DENISE & JAMES MARTIN** requests an Administrative Permit for a (10) Ten Year Maintenance Permit to hand-cut the Common Reed (*Phragmites australis*) to not less than 12" in height on an as needed basis. Located: 2740 Deep Hole Drive, Mattituck.

Number three, **GEORGE D. VAIL** requests an Administrative Permit to install a 90' long fence along westerly property line varying in height from 6' down to 3' at most seaward end. Located: 50 Oak Drive, Southold

Number four, **GARDINER'S BAY ESTATES HOME OWNERS ASSOCIATION, INC.,** requests an Administrative Permit for a (10) Ten Year Maintenance Permit to remove Japanese Knotweed, Common Reed (*Phragmites australis*), and other various invasive weeds by cutting and removing stalks by hand to an approved upland location, and spraying Round-Up on an as needed basis. Located: 2600 Old Orchard Road, East Marion.

And number six, **SEAN R. McCOYD** requests an Administrative Permit to break up a portion of existing driveway in order to replace existing sanitary system in-place and repave disturbed area. Located: 3360 Minnehaha Boulevard, Southold.

TRUSTEE BERGEN: I'll second that motion.

TRUSTEE KING: All in favor?



(ALL AYES).

Number five, **JULIANNE KARSTEN** requests an Administrative Permit for a (10) Ten Year Maintenance Permit to hand cut the vegetation within the buffer area down to the top of existing fence on an as needed basis; hand cut the Common Reed (*Phragmites australis*) to not less than 12" in height on an as needed basis; and maintain the existing 4' wide access path to the water. Located: 57908 Main Road, Southold.

We went out and looked at it. I think the Board was a little uncomfortable with this one. The clearing is being asked to be taking place in an established buffer area and I think we are very uncomfortable with some of it. They have a four-foot wide path to the beach already. It's currently being maintained, which is no problem. But based on what we saw with the size of the buffer, I would make a motion to deny this without prejudice and maybe they can come in and give us something more specific on exactly what they want to do there.

TRUSTEE BREDEMEYER: That would make sense.

TRUSTEE DOMINO: I'll second that.

TRUSTEE KING: All in favor?

(ALL AYES).

#### **V. APPLICATIONS FOR EXTENSIONS/TRANSFERS/ADMINISTRATIVE AMENDMENTS:**

TRUSTEE KING: Under Applications for Extensions, Transfers and Administrative Amendments, I think we'll do the same thing here.

We can do one through five on page three, which read as follows:

Number one, **BARBARA DeFINA** requests a One-Year Extension to Wetland Permit #7688 and Coastal Erosion Permit # 7688C, as issued on November 16, 2011. Located: 192 Willow Terrace Lane, Orient.

Number two, James N. Grace on behalf of **GRACE PROPERTIES** requests a One-Year Extension to Wetland Permit #7689 and Coastal Erosion Permit #7689C, as issued on November 16, 2011. Located: 190 Willow Terrace Lane, Orient.

Number three, Michael Kimack on behalf of **MICHAEL McALLISTER & BARBARA JONES** request a One-Year Extension to Wetland Permit #7692 and Coastal Erosion Permit #7692C, as issued on November 16, 2011, and Amended on August 22, 2012. Located: 17665 Soundview Avenue, Southold.

Number four, **MARIA MARONI** requests a Transfer of Wetland Permit #5915 from Anna Acker to Maria & Michael Maroni, as issued on May 26, 2004. Located: 855 Pine Neck Road, Southold.

Number five, **JOHN & JEANETTE COLLINS** request an Administrative Amendment to Wetland Permit #7702 to install a 15' wide non-turf buffer along the landward edge of the bulkhead. Located: 515 Waters Edge Way, Southold.

And we can do six through nine on page four. Number nine was found inconsistent only because it did not have a Trustee permit. So now by issuing a permit for it, I find it brings it into consistency with the LWRP. They are listed as follows:



Number six, DKR Shores, Inc., on behalf of **JOHN ABBOTT** requests an Administrative Amendment to Wetland Permit #8012 to construct a 4'x4' cantilevered platform with 3.5'x14' stairs to beach.

Located: 8630 Great Peconic Bay Boulevard, Laurel.

Number seven, DKR Shores, Inc., on behalf of **KEVIN WHITROCK** requests an Administrative Amendment to construct a 5'x5' platform with 4'x7' stairs to beach. Located: 580 Terry Path, Mattituck.

Number eight, Anthony Vivona on behalf of **PEBBLE BEACH FARMS LOT OWNERS ASSOCIATION** requests an Administrative Amendment to

Wetland Permit #7826 and Coastal Erosion Permit # 7826C to replace a section of existing walk by installing +/-2' x +/-3'

bluestone slabs with 5/8" gaps between; re-vegetate entrance area; remove existing metal guard rails and replace with

pressure-treated wood 8"-10" in diameter bollards, grouped in threes and wrapped in roping, and with roping suspended between.

Located: 5065 The Long Way, East Marion.

Number nine, David Jannuzzi, Esq., on behalf of **THOMAS McDONAGH**

requests an Administrative Amendment to Wetland Permit #4596 for the existing 40' fixed catwalk with electric and water service;

and to install a drywell onto existing dwelling to contain roof runoff. Located: 765 Cedar Point Drive, Southold.

So that's my motion, one through nine -- I think we can do them all, straight through to number 13. Sorry.

Number ten is **JACQUELINE MCGOWAN** requests an Administrative Amendment to Wetland Permit #5641 to install a 4'x6' stationary generator against rear of dwelling. Located: 13350 New Suffolk Avenue, Cutchogue.

Number 11, **EDWARD VOLINI** requests an Administrative Amendment to Wetland Permit #8284 to raise the new bulkhead approximately 15" higher than existing to match height of neighbor's bulkhead.

Located: 8625 Nassau Point Road, Cutchogue.

Number 12, **DAVID TURNER** requests an Administrative Amendment to Wetland Permit #8244 to construct a 9'x6' non-treated wood deck adjacent to the bulkhead; a proposed ships ladder to beach; bulkhead whaler and capping to be +/-18" wide; relocate to along the top of bluff and expand proposed on-grade loose-laid patio to 30'x16' with a stone & gravel French Drain with a 4" diameter perforated pipe that will drain into a drywell to prevent storm water run-off; a proposed 3' wide loose-laid tile walkway along east side of dwelling with a 6'x12' loose-laid tile patio at side entry; install a dry swale along west side of dwelling to contain storm water run-off. Located: 640 West Shore Drive, Southold.

And number 13, Charles Thomas, Architect on behalf of **ANTHONY & ANN MARIE MOSCHITTA** requests an Administrative Amendment to Wetland Permit #7894 to install armor approximately +/-110' long by 6' wide of slope by installing 100-500 lb boulders on top of filter fabric. Located: 1800 Broadwaters Road, Cutchogue.

Let's approve one through 13.

TRUSTEE BREDEMEYER: That's your motion?

TRUSTEE KING: That is my motion.

TRUSTEE BREDEMEYER: I'll second that.



TRUSTEE KING: All in favor?  
(ALL AYES).

TRUSTEE KING: Number 14, Amend Resolution dated September 18, 2013 to read as follows:

RESOLVED, that the Southold Town Board of Trustees APPROVES the application of **RICHARD MCKINNEY & CYNTHIA POWER** for an Administrative Amendment to Wetland Permit #7765 and Coastal Erosion Permit #7765C to re-install +/-32' of 4' high north side fence and +/-142' of 4' high south side fence; install a 4' high gate for access stairway to beach at existing wood deck; reinstall existing 4'x5' platform in cantilevered position to bulkhead; and reinstall existing 3' wide access stairway to beach in parallel position to shoreline. Located: 12340 Route 25, East Marion.

This is an amended resolution. There was a mistake made when we went out. It was for a fence. We thought they were going to install a fence, and they had no intention of installing a fence. So we are just amending the amendment so it takes that part of it out of it. So it's just installing part of the fence. The fence across the property was never intended to be installed. We thought it was and we put a stipulation it had to be landward of the non-turf buffer. So that's removed from the language. So now it's corrected. So I would make that motion to approve this correction.

TRUSTEE BERGEN: Second.

TRUSTEE KING: All in favor?  
(ALL AYES).

## **VI. DUCK BLINDS**

TRUSTEE KING: Under Duck Blinds, number one, John L. Wickham requests a Duck Blind Permit in West Creek. Access: Private John Wickham, I believe this is to replace another permit in the same place, just a different person. I would make a motion to approve.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?  
(ALL AYES).

## **VII. RESOLUTIONS – OTHER:**

TRUSTEE KING: Under resolutions, 2013 through 2014 scallop season:

RESOLVED, that the Southold Town Board of Trustees open the following dates to scallop harvesting and pursuant to Chapter 219 (Shellfish) of the Code of the Town of Southold: From Monday, November 4, 2013, from sunrise to sunset through Monday, March 31, 2014, inclusive, in all Town waters, as per Town Code.

TRUSTEE BERGEN: I'll second that.

TRUSTEE KING: All in favor?  
(ALL AYES).

(Trustee Robert Ghosio and Legal Counsel Lori Hulse are now also present).

TRUSTEE KING: We now have a full Board here. Bob Ghosio just



came in. And Lori Hulse is our legal advisor down at the end there. I'll make a motion to go off our regular hearings and into the public hearings session.

TRUSTEE DOMINO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

### VIII. PUBLIC HEARINGS:

TRUSTEE KING: As I said, in the beginning, please, if you have any comments to make, come up and identify yourself to Wayne and try and keep your comments limited to five minutes or less. We would appreciate it.

### AMENDMENTS:

TRUSTEE KING: Number one under Amendments, Fairweather & Brown Associates on behalf of **VASILIOS FRANGOS** requests an Amendment to Wetland Permit #7388 & Coastal Erosion Permit #7388C to replace the 809 square foot decking on the seaward side of the dwelling. Located: 55755 County Road 48, Southold.

This was found inconsistent with the LWRP. One of the reasons is avoid development of water dependent uses in coastal hazard areas; locate development away from coastal areas as far away as practical. This is for an 809 square foot deck. It was recommend that the Board consider requiring alternative natural material stone patio to prevent adverse effect on the water body. These types of structures become debris and hazards during water body and storm events. Those are the comments from the LWRP coordinator. I'm looking for the CAC comments. I don't see them. The CAC did not make an inspection, therefore no recommendation has been made.

Is there anyone here to speak on behalf of or against this application?

MS. MARTIN: Amy Martin, Fairweather & Brown, representing Mr. and Mrs. Frangos. We resubmitted a plan to you. I had spoken with your office and with an installer who does other applications as to an appropriate exchange for using decking, and we have submitted a plan that shows the use of the pad stones as a full two foot around the whole premises buffer, inside the bulkhead and around the edges, that are close to water, and then the use of the largest concrete pad stones we can, paving stones we can, over a base of pad stones that will have been landscape clothed and tamp-able surface to be able to level the patio. And speaking with someone who has done a similar approved installation, he feels this is something that will survive any storm surge without leaving the premises. These are manmade pavers, as they are heavier than natural pavers. They would be concrete.

TRUSTEE KING: It's a tough call. It's not a deck.

TRUSTEE BERGEN: It's not a deck. What we are discussing here is coastal zone compliance is 200-square foot. And we have been consistent with structures that had been, were pre-existing, that got destroyed in storms, if they wanted to come in and rebuild, it was limited to 200-square foot.



MS. MARTIN: Right. The homeowner decided rather than have a combination of stone and deck, he would prefer to have something that is not going to be a deck, to eliminate the deck and just have the patio surface.

TRUSTEE KING: It's a tough call. It's not a deck.

MS. HULSE: It doesn't have to be a deck, it just has to have a top surface of less than 200-square feet. So this still doesn't qualify.

MS. MARTIN: I have been advised this has been used elsewhere right up to the bulkhead.

TRUSTEE DOMINO: How is it pitched?

TRUSTEE BERGEN: The question is how is it pitched?

MS. MARTIN: However you would like it pitched.

TRUSTEE BERGEN: I'm just speaking for myself. I'm uncomfortable because it is over 200-square feet. Granted, it is a patio rather than a deck, but as counsel just pointed out, in her opinion, that is irrelevant, it's still surface area, it's over 200-square feet. And I think it's going to be susceptible --

MS. MARTIN: I have been at hearings where you allowed pavers right up to the edge of the bulkhead on other properties, for the whole length.

TRUSTEE BERGEN: I could remember that also but I don't believe it was in coastal zone hazard areas. I could be wrong. But I know we have done that in the bays that are not in coastal zone hazard areas. One of the challenges, one of the reasons behind coastal zone hazard areas is because there is much higher surf and much higher wave energy can be generated in those areas than is generated in our bays.

MS. MARTIN: This is something we are proposing that would have the drainage, not have the structure that will wash into the Sound. We are using, you know, we are going to put all these pad stones beneath it so it drains through.

MS. HULSE: The problem is it's not the type of construction -- the problem is that anything that is built with an open surface area that is 200-square feet or greater in coastal erosion is not allowed. So to become an unregulated activity it has to be under 200-square feet top surface area. That's the issue. And the Trustees don't have the ability to deviate from that.

TRUSTEE KING: Can we issue a coastal erosion permit for it? Even though it's not an unregulated activity? I don't know. I think we need to take a hard look at this.

MS. HULSE: I don't see how.

TRUSTEE GHOSIO: What have we done here in the past? What have we allowed in the past? Have we allowed any blocks, if they had grass or sand between; if it's porous, have we allowed it?

TRUSTEE KING: There is one or two further to the east I can remember we did; one I think they put a splash pad in behind the bulkhead and I think landward of that splash pad they had a deck or patio.

TRUSTEE BERGEN: That's what I recall. And it was 200-square foot, the deck or patio. Then there was a splash pad. A splash pad is different than what is described here.

TRUSTEE BREDEMEYER: The splash pad is part of the unit



construction of the bulkhead.

TRUSTEE BERGEN: So as an option here for you, for the applicant to consider, is amending this plan so it limits the deck to 200 -- or the patio, whatever you want to call it -- to 200-square feet, and the rest could be done with rock splash pad, or however much of the area you would like to have that done to. I don't know. It sounds like we are bound by the code here.

MS. HULSE: I thought that was the suggestion that was made last month. So we are still in the situation that is exactly the same as last month.

MS. MARTIN: I was not under the impression that the patio was, had to be limited to 200-square feet, from last month's discussion, so that's why we proceeded as such.

TRUSTEE BREDEMEYER: I think the misunderstanding was it would be the patio and then you would have a splash pad that would extend off the bounds of the patio.

MS. MARTIN: And the splash pad would be the pad stones we are talking about? What are the substances the splash pad can be made of?

TRUSTEE BREDEMEYER: Typically stone of that size with sufficient sand and gravel below that can handle the drainage needs of water coming over the bulkhead, so that you don't have the sandy material spilling back over the bulkhead during a wave event. I'll rely on some of the other Boards' experience, but I think usually the splash pads we have seen five to ten feet in width. It's fairly substantial in width.

TRUSTEE KING: It's pretty heavy surge stone.

TRUSTEE BREDEMEYER: The problem we have is the Coastal Erosion Hazard Act defines this area as beach, actually, even though it doesn't look anything like a beach, but within the definitions that we have of 200-square feet, it's within the area that is considered beach.

MS. MARTIN: The beach only shows there at low tide.

TRUSTEE KING: I think Rabbit Lane, everyone has been restricted to 200-square feet. To approve this will really open up a can of worms.

MS. MARTIN: If we were to limit the patio area right off the front doors there to the 200 feet, would they be allowed to have, could we add to this, to ask for a set of stairs that are removable, for the summer, to get down to the beach and have a path to those stairs?

TRUSTEE BREDEMEYER: We have done that before.

TRUSTEE BERGEN: Yes.

TRUSTEE GHOSIO: Where do you want to put the stairs?

MS. MARTIN: We haven't discussed that.

MR. FRANGOS: My name is Vasilios Frangos, I'm the owner of the property. This would be the area (indicating).

MS. MARTIN: It would be the angled area to the east.

MR. FRANGOS: The eastern most point of the property.

TRUSTEE BERGEN: I would recommend removable stairs there because nor'easters, we have an obvious problem. If you could remove them ahead of time and have the opportunity to save them.

TRUSTEE GHOSIO: So what you are saying is 200-square foot surface area, be it a deck or patio, whatever it might be, would



be less than 200-square feet -- so what he what we are talking about here is less than 200-square foot patio outside the double doors.

MS. MARTIN: Yes.

TRUSTEE GHOSIO: And off to the east, on the angled bulkhead, you want to put a removable stairs and have a path to those stairs.

MS. MARTIN: Yes.

TRUSTEE GHOSIO: How big a path are we talking? Are you just talking round patio stones to get to it?

MS. MARTIN: Probably the same, 2x3, again, angled. So I would say three foot wide so it's safe to pass.

TRUSTEE KING: I would like to table this and have them come back with a set of plans to see what we are talking about, to see if we can work through this.

TRUSTEE BREDEMEYER: That would be the best thing, to table it and get a set of plans.

TRUSTEE KING: I'd motion to table this and get a new set of plans.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE BERGEN: Number two, **MARY S. ZUPA** requests an Amendment to Wetland Permit #5636 to install 60 tons of 8"-10" stone rip-rap with filter fabric membrane behind existing bulkhead; re-vegetate disturbed areas as needed with sea grass; and install new thru-flow open-grate cap onto bulkhead. Located: 580 Basin Road, Southold.

This was reviewed under the LWRP and found to be consistent. And the CAC resolved to support the application. The Board did go out and looked at this.

Is there anybody here to speak on behalf of this application?

MR. ZUPA: I'm here to speak on behalf of the application. My name is Victor Zupa, I'm the husband of the applicant. You can see that actually most of the damage was done there by Hurricane Sandy. During the nor'easters we had during the winter it continues to scour. That's a good example of the way it looked like all along the entire bulkhead in the spring. It looks better now in some areas because the beach grass has filled in. But there is still a drop, and the opinions that we had is that the rip rap, it would prevent the scouring, the waves come over any then retreat. But then again, as John pointed out when he was up there putting the rip rap down, you lose the sea grass in that area. So we think that the rip rap would probably be the best alternative, put cloth down and rip rap. Then of course replace the cap with a flow-through type of thing so the water goes through, because it constantly pushes those up.

TRUSTEE BERGEN: Thank you. I notice in the plans the rip rap is designed to extend approximately four feet behind the bulkhead.

MR. ZUPA: That's correct. If I could, I'm still going back and forth whether or not to put rip rap in, which will destroy the grass that regenerated, or sand, so if it's not improper could I have the option of replenishing it with sand instead?

In other words filling in the sand that we lost rather than



putting in a cloth and rip rap down, because then that kills the grass between the bulkhead.

TRUSTEE KING: That would just be considered an ordinary repair. If you just wanted to put sand on, you would not need a permit for that.

MR. ZUPA: I understand. We just have had different opinions of whether rip rap was the way to go or whether sand was the way to go. I would like to take a look at it again in the winter when the grass is matted down more. Because it looked a lot, the entire area looked like the area you see there. That's the worst area. And it's dropped down.

TRUSTEE BERGEN: You bring up a very good point. We have seen a lot of this post-Sandy and actually post-Irene also, where if a splash pad with rip rap was created behind it, yes, you are not able to plant grass or grass can't really grow through that. But the rip rap has held pretty well. It all depends on the violence of the storm. But also, you are absolutely right, with the flow-through capping, I just happened, the other day when we had those high winds on Saturday, I watched water shoot up through a bulkhead and the flow-through cap worked perfectly. Because all the water shot through the cap rather than meet with the resistance of the boards that people have, that just gets destroyed. So the flow-through cap is an excellent idea for everybody to do.

MR. ZUPA: There is no question about the cap. The question is about, we went through a huge effort in planting that grass, as you know, and having it planted in December, the winter, in snow, and it's coming up nice, so it's kind of a certain sense of not wanting to destroy what we spent.

TRUSTEE BERGEN: Sure. As Trustee King alluded to, you can always elect not to do this and not do the portion of the permit for the splash pad, and plant grass. That is ordinary horticultural activity that is exempt under the code. My recommendation is you move forward with this tonight and hopefully it's approved and then you have the option of either going with the rocks or if you would rather go ahead and do the grass you can do the grass. It won't make any difference. From a permitting perspective, it won't make a difference.

MR. ZUPA: Thank you.

TRUSTEE KING: Is there anybody else in the audience that wanted to speak on this application?

MR. ANDERSON: Bruce Anderson, representing Paradise Point Association. Just to let you know, the association is in support of the application, and that there is one concern. I couldn't tell by looking at the plan, that is we would not want to see the rip rap to be placed directly behind the jetty, the eastern jetty shown on the plans. It appears to us that is not proposed, but it was not entirely clear. I have a little sketch just identifying that area for the Board. The concern would only be if we were to place rip rap in that area it might impede access out on to that jetty. Thank you.

TRUSTEE BERGEN: What he's alluding to is there a jetty out here



where there is access through an easement from the association, and his concern is if rip rap is placed there would it impede traffic to be able to walk out on that jetty. An alternative could be to put, again, something, it's up to you, not to put any rip rap there or just put something over it which would allow for people to walk through.

MR. ZUPA: Actually, the grass there does protect it. We don't plan on putting rip rap behind the jetty. That's protected. The grass there protects the property. That's why we want to keep it intact and not have it destroyed. Because that literally keeps everything in toe. I have pictures of what that looked like before we put the bulkhead in and put the grass in there. There was actually a three-foot gap between the bulkhead and the property where you couldn't even get access to it. And when we had the jetty repaired, that was filled in, the grass was put in and it preserves it. So no, we don't plan putting rip rap immediately behind the jetty.

TRUSTEE BERGEN: Thank you. Is there anybody else in the audience that wants to speak for or against this application?

(No response).

If not, I'll make a motion to close this hearing.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE BERGEN: I'll make a motion to approve this application of Mary Zupa of 580 Basin Road in Southold, as per the set of plans stamped received September 19th, 2013, showing that the proposed rip rap will not extend greater than four foot landward behind the bulkhead and there will be no rip rap installed immediately behind the jetty. And this has been found consistent under the LWRP.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

#### **WETLAND & COASTAL EROSION PERMITS:**

TRUSTEE BREDEMEYER: The next application, under Wetland and Coastal Erosion Permits, is number one, **WILLIAM HANDS** requests an Amendment to Wetland Permit #3720 and requests a Coastal Erosion Permit to excavate on the landward side of the existing 130' long bulkhead with two 10' returns and add vinyl sheathing, replace all dead-men, lay-logs, and tie-rods; add new face-piles adjacent to existing face-piles; cap bulkhead with CCA boards; temporarily remove and replace existing landing with stairs to beach; and install a 10' wide non-turf buffer along the landward edge of the bulkhead. Located: 960 Willow Terrace Lane, Orient.

The Conservation Advisory Council voted to support this application with at least a 16-foot buffer. The Trustee inspection that I performed, I had made a similar recommendation for a 15-foot non-turf buffer, as the neighbors are approximately 15 to 16 feet. And the LWRP has determined this project is consistent with the town's local waterfront revitalization program.

Is there anyone here who wishes to speak on behalf of this application?



MR. HANDS: Bill Hands. I'm here, John, but I don't have anything.

TRUSTEE BREDEMEYER: This is Mr. Bill Hands, for the record.

Bill, the excavation that is proposed is about 16 feet, and the neighbors have a slightly larger buffer. Would you have a problem with the larger non-turf buffer, similar?

MR. HANDS: Not really.

TRUSTEE BREDEMEYER: It should not block views or anything, because your down slope is still pretty steep there. I think that was the only question that the Conservation Advisory Council and the Trustees had.

MR. HANDS: The only question I have is if you have a 15-foot non-turf area, then getting to the --

TRUSTEE BREDEMEYER: You can have a four-foot wide path down to your set of steps is the usual. So you would keep that in a non-turf material or non-maintained lawn so it's not receiving fertilizer and chemicals. That's acceptable

MR. HANDS: Okay. Four feet.

TRUSTEE BREDEMEYER: Yes. Is there anyone else here who wishes to speak on behalf of this application or against it?

Trustees, any comments?

(No response).

It's a pretty straightforward application. Hearing none, I'll make a motion to close the hearing in this matter.

TRUSTEE DOMINO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: I would make a motion to approve the application as submitted, with the stipulation that it provides for a 15-foot non-turf buffer, allowing a four-foot wide access path to the beach for the stairs.

TRUSTEE DOMINO: I'll second that.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE DOMINO: Number two, J.M.O. Environmental Consulting on behalf of **JOHN N. IRWIN III** requests a Wetland Permit and a Coastal Erosion Permit to repair storm damaged shoreline by installing approximately 350' of rock revetment; debris shall be removed; area excavated and re-graded and geotextile filter fabric shall be installed; a 3" layer of crushed stone be placed on top of the filter fabric; on top of this two layers of "armor layer rip-rap revetment" which will consist of 3' minimum rock will be installed; at the toe of the revetment rocks 4' minimum will be used; at the top of the bank topsoil and loam shall be installed and seeded; a 3.5'x23' beach access stairs will be installed. Located: 1206 Buckner Drive, Fishers Island.

The LWRP coordinator found this to be consistent. The Conservation Advisory Council did not visit the site, therefore no recommendation was made. The Trustees visited this site in the spring.

Is there anyone here to speak to this application?



MR. JUST: Good evening. Glenn Just of JMO Consulting, for the applicant, if there are any comments or questions. I don't know if you guys recall when we went out there right after, I think it was April 21st, this was one of the four or five sites we visited on the south side of Fishers, where during Sandy there was a lot of bluff erosion. It's just a matter of, again, it's a project description, they want to trench out in front of the toe of the bluff, place some gravel down, some filter fabric and just fortify the bluff with natural boulders.

I know there has been questions in the past as far as access for machinery and storage. If you look at the top right-hand side of the plans, Mrs. Irwin, they own three lots. Two of the lots are contiguous to this one. But if you look all the way here, here is the travel access road. I don't know if you recall, that's Barley Field Cove just before you come down to the practice range of the country club, wraps around the road there. They'll come right down the beach. There is no beach grass or wetland vegetation along the beach there. It's just a matter of moving perhaps a couple of boulders out of the way, coming down the beach and put them back as they come back out. I did E-mail the Trustees some photos that we took last Friday at the site.

TRUSTEE DOMINO: They are in the file. Glenn, I have a question. I don't see, in the description, you talk about bank, top soil, loam and seeding. I don't see on the plans any notice of a non-turf buffer.

MR. JUST: We never discussed a non-turf buffer because I don't recall -- you could see the lawn is shown on the property. But that seeding, that was just at the top of the revetment, to fill in the top to blend in the soil with the top of the bank and just plant it with native species to make it blend in. If the Trustees want a buffer, I'm sure it would not be an issue.

TRUSTEE DOMINO: How does the Board feel about that?

TRUSTEE KING: As long as it's replant with native vegetation, I don't have an issue. As long as it's not sod.

MR. JUST: It's a pretty wide beach there, if you recall.

TRUSTEE DOMINO: Is there anyone else here to speak to this application? (No response).

Hearing no further comments, I make a motion to close this hearing.

TRUSTEE BERGEN: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE DOMINO: I make a motion to approve this application as submitted.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

MR. JUST: Thank you, very much. Have a good evening.

TRUSTEE GHOSIO: Number three, En-Consultants on behalf of **CLEAVES POINT CLUB AND MARINA, INC.**, requests a Wetland Permit



and a Coastal Erosion Permit to construct in the westerly portion of property situated between existing rock revetment and dock, and landward of spring high water/tidal wetlands a +/-23' x +/-276' reinforced dune consisting of approximately 276 linear feet of 1-2 ton armor stone over core stone rip-rap and filter cloth (partially excavated below existing beach grade), covered with approximately 489 cubic yards of sand fill including +/-389 cubic yards on-site excavated material derived from armor stone installation and +/-100 cubic yards sandy fill to be trucked in from an approved upland source; and to be vegetated with beach grass and native shrubs; along easterly property line and landward of C.E.H.A. boundary, construct a +/-9' wide x +/-197' long x +/-1' high earthen berm consisting of approximately 36 cubic yards of topsoil; and install 8' diameter x 3' deep infiltration basin west of the +/-12' wide portion of berm. Located: 2820 Shipyard Lane, East Marion.

The Board was out to see this last week. This has been found by the LWRP coordinator to be consistent with the LWRP. And the CAC did take a look at it and resolved to support it. And they just wanted to commend the applicant on the project as it represents a very sound engineering plan. This method of erosion control is a format of the future for both residential and commercial properties.

Is there anybody here who would like to speak on behalf of this application?

MR. HERRMANN: Rob Herrmann of En-Consultants on behalf of Cleaves Point. That sounds like a good start. Basically there are two components to this plan. One, on the east side of the property, at the end of the road, that relates to drainage; and one over on the westerly side of the property where the proposed reinforced dune is located. As quickly and briefly as possible, as the Board knows, most of this shoreline is improved with a substantial rock revetment, and there is a gap really on the west side of the property between the revetted shoreline and the properties to the west, where the naturally existing berm or dune area is in good shape. Cleaves Point has been fighting with this area for a while, in order to try and maintain its stability and each storm they have been losing greater and greater chunks, and that escarpment that exists there now, although the vegetation recovers, it kind of keeps moving farther landward to the condominium buildings, and the elevations have been getting lower.

So what we have proposed here, and we have also been in conversations with the DEC who support the design, is to put in a row of stone above the spring high water line, landward of the wetlands, but to basically create a 20-plus foot wide dune over that stone area to try to naturalize the shoreline stabilization approach in that area. What it will do during a big enough storm is sucks that sand material out of there is to at least have the armored line in the sand upon which to rebuild the dune and re-establish the vegetation and also gain some elevation there



to protect themselves against flooding at that same time.

We brought in Jeff Butler to help us design that. And also to design the other component of the project, which is the drainage to the other side of the road. I had joined folks at Cleaves Point meeting with the town engineer at one point to figure out if there was any plan in the works or any design that the town engineer was contemplating to deal with some of the road flooding there. The short answer was no. So Cleaves Point is proposing the berm along the inside of their own property, with some filtration basins, in order to better protect themselves on that side.

One thing to note for the record, and I hope you have this, I had submitted prior to your field inspections a supplemental sketch from Butler Engineering that had shown the addition of two infiltration basins in that corner in addition to the one that was originally proposed, and also to re-work the elevation of the revetment down in that corner that has slumped over time, which you could probably see if you can come in from the road end. So the plan that I just handed up to Jim a few minutes ago now includes those components in the work, including just really re-establishing the top of that revetment to align with the elevation of the rest of the revetment to the west. So all in all, that is a summary of the project. Some folks from Cleaves Point are here also. If you have any questions, we would be happy though answer them.

TRUSTEE GHOSIO: Looking at the new detail that you submitted, you mentioned about raising that existing stone revetment. Just so I'm clear, the existing is about 3.7 and you want to raise it up to 4.4

MR. HERRMANN: Correct. And that section, Bob, is on page two of two. And the drainage section is basically, they added this most seaward section is that referencing those elevations you just mentioned, with the 4.4 being the top elevation. In fact I think Jeff mentions specifically both numbers; the top of the existing revetment at 3.7; the proposed re-work to occur from the southeast corner of the property extending plus or minus 50 linear feet in a southwesterly direction; revetment and re-nourishment to be reworked to elevation 4.4.

TRUSTEE GHOSIO: Most of that is buried right now, isn't it?

MR. HERRMANN: Partially it is. But really when you come down the road end, the revetment really doesn't look like it does on the most of the rest property. Some of the stone has fallen away, some of it is slumped. So what's happening is there is compounding the problem with the storm water coming right up the road, coming right over the top end of the revetment in that area. In the same area. So all the flooding is feeding into the property at the same location. That's what they are looking to mitigate the best that they can.

TRUSTEE GHOSIO: When we were out there, I know we were pretty impressed with the plans in the sense that it's obviously something that is needed and hopefully will work, to save this part of the shoreline down the road. I think that we did mention in our field report, you know, trying to have the engineering



department take a look at that road end as well.

MR. HERRMANN: Yes, they are well aware of the problem. Again, when we first started this process, where this evolved from was originally a meeting with Jamie and it kind of went from there.

TRUSTEE GHOSIO: Any other comments or questions from the Board?

TRUSTEE KING: Isn't this the one where there is a letter that came in?

TRUSTEE BERGEN: Check the file for a letter.

TRUSTEE GHOSIO: We do have a letter here from a John Kent of 2195 Shipyard Lane. To whom it may concern, the Cleaves Point Club and Marina is requesting a coastal erosion permit. I'll try and skim a little bit of it here. I do not object to construction in the westerly portion situated between the existing rock revetment and the dock. However, there appears to be an additional request that is not explained by both notices mentioned above. There is a bonding statement that can be found on a partial site plan area of work that states that they'll re-establish the top of the existing revetment to an elevation of 4.4 feet. Which is what we were just talking about. It continues to mention the rest of that section. This additional planned proposal should not and cannot be permitted due to the fact that no appropriate information has been provided in acceptable due time for fair public review and project evaluation. Both notices available for public review don't mention this additional work concerning reestablishing the revetment. There are issues concerning this proposal. These are bullet points. I'll number them. One, the public is not appropriately informed about this proposed major public beach reconstruction. Two, there is no beach erosion in the area proposed on the partial site plan, the area of the work. Three, this type of approach, a revetment, would destabilize natural approaches, the hydrological and ecological balance. Four, there are other options that are environmentally friendly that re-establish the 4.4 foot revetment. Five, this is a public beach, as small as it is, is recognized as a scenic site. Six, senior citizens, handicapped and children would be unable to access this public beach because of the revetment. And eight, loss of public beach rights. Let it be on the record I do object to the proposed additional work found on this area called the partial site plan area of work which states reestablishing top of the existing revetment to elevation 4.4. I'm objecting to it for the reasons mentioned above.

Then he sent in some supporting documentation to that opinion.

Now, are there any questions or concerns from the Board?

TRUSTEE KING: What's the current elevation at the top, 3.7?

TRUSTEE GHOSIO: Yes.

TRUSTEE KING: And it's going to 4.4.

MR. HERRMANN: Yes. To clarify, if you follow the elevations along the revetment, generally the elevation varies from anywhere of about 3.7 to 4.5. In the easterly most portion nearest to the road, there is a continuous elevation of around 4.4. And some spots they shot 4.3, in some shots they shot 4.5. You are talking about a tenth of a foot, an inch or so



difference from wherever the surveyor happened to set the rod. From what you see in that last 50 feet is just a slumping of that revetment nearest to the road, somewhere between six or nine inches. So we are not talking about adding a revetment, we are not talking about reconstructing a revetment, we are not talking about doing anything that would really change the existing condition whatsoever. Nothing that would impede access, nothing that would create a new condition. You are really just talking about top dressing rock over the top of that revetment. Theoretically, based on the prior coastal erosion permit issued for the revetment, this is really maintenance. But we want to make sure it was in here just to avoid any sort of issue.

TRUSTEE BREDEMEYER: And there is no additional work going on in front of the town road end.

MR. HERRMANN: Correct. Everything is really specifically limited to inside the applicant's property line. And again, that bore out from a conversation originally with the town engineer to see if the town engineer thought the town might sort of join this effort in some way. But it didn't seem like that was forthcoming, so everything is really just limited to the subject property.

TRUSTEE BERGEN: Bob, I would just have that letter and its attachments stipulated it would be entered into the record in its entirety.

TRUSTEE GHOSIO: Yes.

TRUSTEE BERGEN: Thank you.

TRUSTEE GHOSIO: I guess the only question that pops into my mind is why didn't you figure this out when it was first submitted.

MR. HERRMANN: Again, with the issue of the drainage plan, we had gotten the designs, there was a bit of an anxiousness to get in, to make it on to the calendar, and this was something that really Jeff had discussed with the folks at Cleaves Point afterwards. It had been something, again, that was perhaps anticipated just as part of previous maintenance, but it was my suggestion we include it in the record with this permit so there would not be any issue about whether it was something that should have been allowed as maintenance pursuant to the prior permit. We just wanted to really fully disclose every component of the work that was being done. That's the best answer I have for you, Bob.

TRUSTEE GHOSIO: Thank you.

MR. SOLOMON: Mark Solomon, of Cleaves Point. I would like to say that the recommendation for raising that was by John Hocker of Latham who installed the original revetment. And he has been maintaining it for us over the 30, 25 years since it's been installed. Just in reference to Mr. King's comment, the water comes up Shipyard Lane, which is going to necessitate us building the berm on our property to stop it from flowing in that way, and by the town not recognizing and raises the revetment at the end of the road, it further puts a burden on us. If you remember -- I do, because I was there from the original permitting -- we had, at Cleaves Point expense, put the revetment across the Shipyard Lane street to the bulkhead. At our expense instead of the town's expense. And we very much



would appreciate this little element not standing in our way of a permit. I think the town should very seriously consider raising the revetment to that same height across to the bulkhead, which is now defunct anyway. And the real issue is getting something done on correcting the oyster farm bulkhead, because all of the erosion is, a tremendous quantity of sand has been washed through that non-existent bulkhead now, if you have seen that lately.

I just want to comment also to our other neighbors that are here. Cleaves Point has been trying to be a good neighbor throughout this process. We have maintained our property at a very high level. We do everything that the Town Board has suggested over the years. We hire appropriate engineers to do the best work we can. And thank you for recognizing that this plan that we have developed with them is high quality and state of the art for the future. Thank you.

TRUSTEE GHOSIO: Thank you. I don't have any problem with it.

TRUSTEE BREDEMEYER: I don't have any problem with it either. There is clearly no obstruction of beach access and whether it be a riparian issue that the town road end remains as it always has. And these people are just trying to make amends after one of the worst storms of the century.

MS. HULSE: Rob, can I ask a question. Did you provide an addendum to the neighboring properties with reference to what was spoken about in the letter.

MR. HERRMANN: No. It was submitted formally to the Trustees office, so that it would be something the Trustees would have to take a look at during site inspections.

TRUSTEE GHOSIO: Is this something we, that we need to --

TRUSTEE KING: In my mind that would have been considered just ordinary maintenance just to go in there and bring it back to the original height. You don't need a permit to do it.

MR. HERRMANN: Again, that was the idea was, instead of trying to sort of tacitly lump some other section in as maintenance, we were trying to disclose it, and it sounds like the one person that may have a concern about it was aware of it.

MS. HULSE: It's not really a matter of the one person's concern. It's really a matter of whether or not the Trustees believe it's ordinary maintenance. If that's your finding, that's fine. If it's not your finding, it has to be noticed.

TRUSTEE BREDEMEYER: It seems to be ordinary maintenance.

TRUSTEE KING: It's just a matter of inches.

TRUSTEE GHOSIO: And bringing it back to where it was originally. Ma'am?

MS. RACKETT-ROSSETTI: My name is Susan Rackett-Rossetti. I grew up on Shipyard Lane in East Marion in the house where my parents have lived for 63 years, and I currently live once again on Shipyard Lane.

When I was little, the beach at the end of the road was a big, beautiful sandy beach, that extended out more than five-hundred yards from where the current beach is. In addition, there was also a wide area of beach grass between the end of the



road and the sand of the beach. And the road itself extended out far beyond where it currently ends. After the old oyster plant put up bulkheads in the early 1940's, the beach began to erode until there was nothing left except a narrow strip of stones and rocks. The oyster plant closed in 1986. And since then the bulkheads have deteriorated enough to allow the natural flow of sand along the beach to return. As a result, the beach has begun to rebuild itself. I have copies attached which I would like to put on file of several photos taken 21 to 27 years ago showing the rocky beach, and another taken recently, illustrating the state of the beach. And I have a couple of comments or questions.

The public notice that was posted only contained information about work to be done between the west end of the existing rock revetment and the dock. I don't have any objection to that. I do object, however, to the other part of the project that was only noted on file in the Trustees office about raising or rebuilding the existing rock revetment. That was not posted as a public notice and it just seems to me like it was trying to be snuck in. The end of Shipyard Lane is a public beach, and I'm concerned that the height of the proposed rocks at the end of the road would restrict access to the beach for anyone who is not agile, such as seniors. And why are two different types of remedies proposed for two those sections. The area between the existing rocks and the dock propose a berm with planting of native grasses and shrubs. The non-posted proposal where existing revetment is just talks about rocks. There is nothing there stating natural vegetation, et cetera.

One of the photos I have here shows some storm damage from 19 -- I don't have that here. That was not the issue. But the land that comes out from the condos slopes downward, and then actually slopes up to where the rock is, and any time there is any kind of storm, that does flood. There is always rocks, debris and water catches there. And it's not graded in a way where that won't catch. It makes its own little inland sea, so to speak. This is my document I would like to put on file. And I thank you very much.

TRUSTEE GHOSIO: Ms. Rossetti, I guess could you just clarify for me your actual objections? Are you objecting to one section?

MS. RACKETT-ROSSETTI: I was objecting to the part that was tacked on. Not the public notice. The part where the berm would be created to the west of the existing rocks to the dock. I don't object to that. I object to the second part in that it was not offered as public, it was not put out as public notice. And the way it was written, it seems like it would be a height greater than what exists now. That's the way it appeared to me.

TRUSTEE GHOSIO: Rob, what's the elevation difference there? I know 3.4 -- 3.7 to 4.4.

MR. HERRMANN: It's about seven-tenths of a foot. In other words, the question that seems to keep coming up is this issue of access. This is not affecting the portion of the revetment at the road end. This is only inside the property where, from the



beach, you have the toe at the water, and then it builds up to the lawn on the Cleaves Point property. So at the top of the lawn, those rocks are probably about seven-tenths of a foot lower than the top of the rocks farther in on Cleaves Point lawn. So again, the scope of the structure that is there is not changing. You are just top dressing stone on top of existing stone. It has nothing to do with access. It has nothing to do with the road end.

TRUSTEE GHOSIO: And it's only about eight inches.

MR. HERRMANN: Correct. And the reason it's a different proposal from the other side of the property is because on the east side near the road, the revetment exists. In the portion of the property that is depicted in the photograph on the west side, there is no, there is currently no structure there, and so that is the idea of introducing reinforced dune. With the proximity of the revetment to the water by the road end, any sand you put there would just immediately be washed away. So again, I'm just trying to clarify what we are talking about here. I think there seems to be a perception we are doing something new or changing what was there.

TRUSTEE GHOSIO: That's why I was asking.

MS. RACKETT-ROSSETTI: The way it was proposed, it was written as 4.4 feet, you are talking this high from the ground.

TRUSTEE KING: That's eight inches. That's how much higher it will be.

TRUSTEE GHOSIO: What is there currently is buried. So you are not seeing it. So what you, what they are talking about is bringing it up from where it is currently about seven or eight inches.

MR. HERRMANN: Also, to clarify, for the public, those elevations are elevations reference to mean sea level. It doesn't mean it's 4.4 feet high above the grade. It's just what the top elevation is relative to mean sea level.

TRUSTEE GHOSIO: Good point.

MR. HERRMANN: It's really the most --

TRUSTEE GHOSIO: So really, based upon what we are looking at here, you are talking about seven inches difference from what is there now, which most of it you can't even see.

MS. RACKETT-ROSSETTI: It appeared to me that it would have been added to, you would be peeking over the top.

TRUSTEE GHOSIO: That's my fault. Which is why I asked Rob to clarify so we have some sense of what we are talking about. Sir?

MR. KENT: John Kent from East Marion, Shipyard Lane. I would like to add some comments. I submitted a letter and I had to revise my letter. I would like to add and make a couple of points. This gentleman, would he explain right now what seems to be little bit of problem. Number one, I do not object to the notice that was displayed. There is no objection to that application. However, what concerns me is the revetment of 4.4 feet. That kind of puzzles me. Now what he's talking about sounds a little bit different. Why this was not entered into the application, why there was not and is not provided sufficient information, a picture, explanation, how it's going to look like. It sounds



very nice what he's talking about. But I have a little problem to visualize what is really going on. At one point he's talking about protecting the shoreline. On the other hand there is no picture, there is no sufficient explanation. What I found on one of the, it's called partial site plan work area. And there is a comment, a note, and it says about revetment, 4.4 foot. And it talks about some improvements. This picture does not explain how it's going to look like. I think this issue should be discussed once more. I think they should submit more information, that way we people know what is going on. I believe people have the right to know what they intend to do. I would like to say that when you look at a beach, right now, I would like to show you this picture. I took this pictures week ago. It's a beautiful beach. And you can see that through natural process, this beach recovered. By itself. This beach is very important for our community. If there is a revetment, 4.4 foot, how is it? Is that an obstacle? Is that only to protect the property? I don't know. These pictures and these superficial explanation does not justify approval. Furthermore, I would like to say that perhaps there are some other options that should be also explored. For example, I understand concern that our neighbors at Cleaves Point might have. Let's look at it this way. Condominium grounds are not level. The grounds along the shoreline are sloping downward, inward. It's like a basin. Any time there is rain, you can see it's flooded. Maybe it should be leveled. Level it. Okay? Perhaps more dirt, create more elevation. How about if use DEC recommendation methods that says planting native deep-rooting vegetation or planting trees and shrubs along the shoreline. These environmentally friendly approach improves drainage and stabilizes the shoreline. Perhaps this should be taken into consideration.

Now, rip rap, I don't think it's a simple solution.

TRUSTEE KING: There is a misunderstanding here. Because if you look -- if you look at the elevation landward of that revetment where it will be repaired, it's 3.3 feet. If at the top of the wall is 4.7. You are only looking at that much (indicating). It's not four foot high.

MR. KENT: It appears that way from your explanation but I believe public has right to know what is intended. What is planned. And pictures or plans should have been provided to demonstrate that. And it should have been mentioned in the notice. And it was not. Fact is, this is according to DEC, if I can make that point, according to DEC, they are saying that rip rap is not exactly the best solution. Because placing revetment, loose rocks and stone would only destabilize shoreline condition and trigger erosion. It is recommended by DEC that these types of structures --

TRUSTEE BREDEMEYER: Sir, we are well aware of the general DEC recommendations. But this is a pre-existing structure here they are merely trying to make a small repair on. I think that's where the misunderstanding occurs. We are well aware. This is



high energy area that takes water from basically the center of Hallock's Bay on a northeastern storm and runs it to the extent of about four miles and the option of the planting was along ago considered during the time of the original revetment was up. I was a Trustee in this town in 1984 and I vaguely recollect some of the discussions surrounding these sorts of sites at that time. Certainly what you say is true. It's more desirable to have plants when you can, but this site has already gone through that extensive review for the appropriateness of plants. In fact this site contains extensive sea grass, up know, on the more westerly section where the wave energies are dissipated. It's just, I think a misunderstanding. I don't know if we need to table this to allow for everyone to see the large sets of plans that are here or maybe re-notice it, but I think this is just a misunderstanding.

MR. KENT: Well, this misunderstanding could have been clarified if a proper information is provided. And that information was not provided.

TRUSTEE GHOSIO: We have that point. We appreciate that, but I do want to give this gentleman and chance to speak.

MR. ANGELI: My name is Michael Angeli, Crescent Beach Condos. We're neighbors of Cleaves Point, and I think what they are doing is really a good idea because sand has been shifting so much from east to west, if it doesn't stop, we have a 12 dock area for our boats. Two of them can't be used anymore because of all the sand that is coming down. I'm sure they lost, if I'm not mistaken, they lost some spots too, right?

The biggest question I have, are they going to be putting sand under these rocks, over these rocks? Will the sand stay there or will it be moved west again with the storm and take up more of our dockage space. That's my only question. But they have been goods neighbors. That's all I have to say.

TRUSTEE GHOSIO: There will be sand, and new plantings also, which hopefully will hold everything together.

MR. HERRMANN: Again, there are two components here. A lot of what I have heard the speakers saying, for all of those reasons, is exactly why the applicant has taken a great deal of time and effort and expense with the engineering plans and all, to design the west side of the project the way it has been designed.

Consistent with all of those thoughts and ideas presented by the DEC and with your Board's typical policies. And to answer this gentleman's question, the stone will be buried by about a 20-foot wide dune and planted with native vegetation throughout this one gapped area. The question of where that sand will end up during a storm, the sand will get pulled into the bay. Same as what has been happening without that berm there. I mean the whole reason we are here is because all of the material that had been existing there at higher elevations, as you see a little further to the west, has been eroded away and lost. Whether that will end up in somebody's dockage space, I can't say, and they can't help. They have to be able to protect the integrity of the property. And we are doing it in the way that is, as described



by some of the other speakers, the way that the New York State DEC prefers to see it, and was the only way that the DEC was willing to grant approval for this component of the project. Another little bit of a misconception here is the entire drainage plan on the east side of the property was noticed. All of the new work was noticed. And it was on the plan. What is different about the plan that I gave you today is that it presents a picture, and if anybody wants to see the picture, it's on the plan. It simply shows the existing revetment on the east side of the property, and profile view as it exists, and it shows that the top elevation is around 3.7 reference to mean sea level at that location. It's barely a couple of feet off the grade of the beach. And because those rocks were snarled up and loosened and came apart and had subsided, they are doing normal maintenance to that structure, which is a permitted structure under prior coastal erosion and wetland permits, to basically top dress that stone less than 12 inches, just to re-assemble that same structure that is there. It won't have any different impact for anybody's access or use of the beach or anything else.

TRUSTEE GHOSIO: And it's already permitted?

MR. HERRMANN: Correct. And what we were trying to do is just to make sure that the Board and everyone was aware, that the maintenance component is going on at the same time for the purpose of full disclosure. I feel we are being a little vilified for it, because there is a misunderstanding. And I hear that, and I understand that. But that's why we are here tonight and that's why we are explaining this. And I feel each time we explain it, someone new stands up and asks the same question that was just answered. I don't know how I can explain it or you can explain it any more clearly. But this is really very, very, very minor maintenance work that was tacked on to the plan. Everything else that is proposed here that is new, was duly noticed and was in the plans that went out.

MS. HULSE: The point is the Trustees already made a finding it's ordinary maintenance, so there is no notice issue at all.

TRUSTEE GHOSIO: It's ordinary maintenance on an already permitted revetment. You were just giving the courtesy of letting us know you were doing that while you are doing this major project.

MR. HERRMANN: Correct.

TRUSTEE GHOSIO: I understand that. I hope the folks that have some concerns are a little more comfortable at this point. Are there any other comments from the audience?

(No response).

Any other comments from the Board? Questions?

(No response).

Seeing none, I'll make a motion to close the hearing.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE GHOSIO: Duly noting the letters and the comments that



were made by some of the folks in having hashed out this issue on this additional maintenance on an already permitted part of the existing revetment, I'll make a motion that we approve the application as submitted.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

MR. HERRMANN: Thank you.

## **WETLAND PERMITS**

TRUSTEE KING: Under Wetland Permits, number one, Richard Trpicousky on behalf of **JOHN LYNCH** requests a Wetland Permit for the existing +/-144 sq. ft. sunroom attached to existing two-story, +/-2,000 sq. ft. dwelling with attached garage; for existing +/-100 sq. ft. shed; and for existing +/-80sq. ft. roof-over swing set. Located: 1020 Glenn Road, Southold.

I believe this was found inconsistent with the LWRP. And it was found inconsistent primarily because there were no permits on the structures. The CAC supports application and recommends a drainage plan.

Is there anyone here to speak on behalf of or against this application?

MR. TRPICOUSKY: Chairmen, members of the Board, the only thing I would like to add to it is the fact that it had been there for some time already. The sunroom itself was built on top of an existing deck which was permitted. They were unaware of at that point of the need to come here. In trying to put all these things into order, the homeowner discovered they needed permits for this. We came to the town to get permits for the shed and the sunroom and at that point they directed us here because we were informed we needed a wetland permit.

TRUSTEE KING: We went out and looked at this. It's just a minor issue. In our field notes, there was one field note, I don't know if you'll need ZBA approval on the shed or not.

MR. TRPICOUSKY: There was the question came with the ZBA for the shed. As first it was suggested that we move it, which we said we would. However at this point we are unsure because there may be more difficulty than we thought to move it. So if necessary, we'll go to the ZBA, if we need to move it. I understand if that happens, we'll probably need to come back here for an amendment.

TRUSTEE KING: I think it's probably a set off issue. If you have to move it, you'll have to come back and amend the Trustee permit.

MR. TRPICOUSKY: Understood.

TRUSTEE KING: Anybody else to speak on behalf of or against this application?

(No response).

I don't think we had any issues with anything. It's a swing set. All minor stuff. I'm fairly familiar with this property because we issued a permit for a low sill bulkhead there years ago. I don't really think there is a need for a buffer there because



with the low sill there, it's really heavily vegetated. I think it's unnecessary. If there are no other comments, I'll make a motion to close the hearing.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE KING: You went to ZBA on this?

MR. TRPICOUSKY: No, we didn't go to ZBA when it was brought up.

TRUSTEE KING: I'll make a motion to reopen this hearing.

TRUSTEE BERGEN: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

MR. TRPICOUSKY: We did not go to the ZBA. When we looked, we were going to originally propose to moving it forward a little bit, to have it rearward of the house line. But with short period of time, it has not been moved at this point. We are leaving it as it is. If it's necessary to move it and if we can't make the change, because I believe there is some plumbing associated, a problem with well or something.

TRUSTEE KING: I believe what you should do is to go to zoning and have them make a determination if it has been moved, because we can't issue a permit for it if it's not approved by zoning.

MR. TRPICOUSKY: We can't go for it where it is and then make an amendment to have it changed if we do go to zoning?

MS. HULSE: No, the Trustees can't give a permit, if you do require a variance where it is right now. If you proposed moving it and it did need a variance, they can give you a permit right now. But if it's where it is now, and it requires a variance, this Board is not a board of variance and they can't give you a permit for that.

MR. TRPICOUSKY: Okay. It was very close and questionable. If you look at the survey where it is, it's basically in line with where the sunroom is, which is where the deck is. But it was uncertain as to whether we had to move it further back to be rearward of the foundation line.

TRUSTEE KING: I think we would just need something from Zoning saying what their determination is.

MR. TRPICOUSKY: Can we possibly get approved pending Zoning approval?

TRUSTEE KING: I don't see how. We can just table this.

MR. TRPICOUSKY: I guess what I was questioning is if we can feasibly move it, where it doesn't need Zoning, we had approval tonight. Or if it was necessary to move to move it, that it won't be issued until we get to Zoning approval?

TRUSTEE KING: (Perusing). Okay, we have a note here. It does need ZBA approval, so.

TRUSTEE BERGEN: So could we move on this with the condition that the permit would not be released without Zoning approval?

MS. HULSE: Yes.

MR. TRPICOUSKY: That would be reasonable. Or the shed be moved to a location where it does not need Zoning.



MS. HULSE: If that's the case you need to amend your plan to show that it's outside of where it is now.

MR. TRPICOUSKY: Let's go for the zoning, if we could do that. Based on approval from Zoning.

TRUSTEE KING: Any other comments?

(No response).

I'll make a motion to close the hearing.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE KING: I'll make a motion to approve the application with the stipulation the permit will not be released until we have certification from the ZBA on the shed. And if you have to move it, plans to reflect the change.

MR. TRPICOUSKY: Okay.

TRUSTEE KING: And that would bring it into consistency under the LWRP. That's my motion.

TRUSTEE BERGEN: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

MR. TRPICOUSKY: Thank you, very much. Have a great evening.

TRUSTEE BERGEN: Number two, En-Consultants on behalf of **ROBERT & KATHLEEN LAWRENCE** request a Wetland Permit to remove existing +/-4'x62' fixed timber dock and construct in its place a 4'x82' fixed timber dock with 4'x8' stairs at its seaward end. Located: 800 West Creek Avenue, Cutchogue.

This was found consistent under the LWRP with a recommendation that if the proposed extension is approved, it's to be a seasonal extension, and that the use of CCA treated materials in the construction of the structure be limited. The Conservation Advisory Council supports the application, using best management practices, noting that member Jack McGreevey was denied access by the property owner. The Board did go out and looked at this.

Is there anybody here to speak on behalf of this application?

MR. HERRMANN: Rob Herrmann on En-Consultants on behalf of the applicants Robert and Kathleen Lawrence. If the Board has any questions, I'm here to answer them. Otherwise it's a pretty straightforward application. It's a catwalk dock that has existed for a long time at this property and was damaged during Sandy last year. And so the proposal is to replace the structure, essentially, in place, in order to achieve a proper elevation above the grade of marsh. The elevation at the landward end will come up a little bit as was shown by the stakes and on the plan. And there is basically a 12-foot extension with set of stairs at the end, just to get access to about a foot of water at mean low or low tide, because right now at mean low or low, the structure ends really in the mud.

The design emulates the design and the approval that was issued by the Board years ago to Debra Doty next door to the



north and it is designed accordingly with thru-flow decking, open-grate decking, on the top.

If the Board has any other questions, I'm happy to answer them. I know it was a pretty crazy tide today when you guys were out there, but I think the stakes were just above the top.

TRUSTEE BERGEN: Thank you. Is there anybody else who would like to speak with regard to this application?

TRUSTEE KING: I think we met the owner out there, and we talked about those rocks, she said she'd maybe stack them up and start the catwalk a little further seaward. But that's okay as long as it doesn't extend further seaward.

MR. HERRMANN: Sorry for that omission. That was a discussion with the homeowners and I think they discussed it with you in the field; that a couple of those stones that are there, if they were moved, the way it's designed right now is the catwalk would come and cover the bottom couple of stones. So if they could stack those in a way, it may allow for the landward end of the dock to be a little shorter, but the seaward extension would be exactly the same. So I assumed the Board would not have an issue with that.

TRUSTEE BERGEN: Okay, hearing no other comments from the audience or Board, I'll make a motion to close this public hearing.

TRUSTEE DOMINO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE BERGEN: I'll make a motion to approve the application of Robert and Kathleen Lawrence, deeming it consistent under the LWRP.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: The next application, number three, En-Consultants on behalf of **ARTHUR & JULIANE GRUNEISEL** requests a Wetland Permit to construct an elevated 4'x42' fixed timber catwalk equipped with (2) sets of 4'x4' timber steps on landward end to allow for passage along shoreline; a 3'x14' hinged ramp; and a 6'x20' float secured by (3) 8" diameter pilings; and install (2) 8" diameter tie-off piles off south side of float. Located: 2875 Pine Tree Road, Cutchogue.

The application has been deemed to be inconsistent with the town's LWRP for the proposal being located within a significant coastal fish and wildlife habitat area, with various concerns detailing that it's a public waterway and it's private action for non-commercial access, and it would not necessarily preserve public access or public recreational activities. The CAC has voted to support the activity provided it does not exceed more than one-third the way across the creek, as is the standard requirement for preserving navigation in their bodies of water. And the Trustees, upon inspecting the project on the 9th of this month, had several concerns; one being that the configuration of the dock does not seem to match that of its neighbors in that the neighbors have a "T" or "L" configurations and we felt that



the tie-off pilings for docks such as this would not be necessary and would in fact provide going over too much public bottom.

Is there anyone here who wishes to speak on behalf of this application?

MR. HERRMANN: Rob Herrmann of En-Consultants on behalf of the applicants. Arthur and Juliane Gruneisel.

We have designed and redesigned this dock several times. So I would like to walk through it a little bit with the Board. It was unfortunate that the Board was there during that astronomically high tide because it was very difficult to get a sense of what the shape of the shoreline is there. This is a shoreline that was dredged pursuant to DEC permit decades ago, so there is a bit of a hollow along this shoreline. And we had anticipated designing the dock actually in an "L" configuration. But upon my, upon the applicant's discussion with the dock builder, it was the dock builder's opinion that if we design the dock with an "L" configuration, that the Board would not approve the tie-off pilings on the outside of the float. So because the applicants were concerned about the ability to tie up their boat, they had several conversations with the neighboring property owner Mr. Freeman, who had a permit for a dock which I think is pictured there --

TRUSTEE GHOSIO: Right here.

MR. HERRMANN: (Continuing) approved by the Board in 2009, that Mr. Freeman had indicated that the wind push there was causing the boat to smack against the float and had caused the dock to be damaged, and he had to repair it and so forth and so on. So what we are trying to do here is really to get, to find the ability, if the Board would be willing to consider it, to put in the tie-off poles. And actually with respect to the concern about the public access and the limitation of one-third the width of the waterway, I actually thought it would be a pretty good idea to have the tie-off poles on the outside of an "L" here, because if you had the "L" without poles on the outside, or if you have it go straight out as it's designed now, you would not really have any control over the size of the boat that came in here. And we are basically right at the one-third. In other words, no matter how this dock is configured, there is about a 33-foot extension that we can establish here. And we know we can't work beyond that. So whether or not the dock goes out to that point and the boat is on the side of it, or there is an "L" or "T" configuration and the boat is on the outside of it, the combination of the dock and the boat under your rules and regulations can't exceed that 33 feet.

So my thought, under the design that you have not seen, was that if we put two tie-off poles a given distance off the "L" so as not to infringe on that 33 feet, you would be establishing a fixed footprint for that dock. If you don't have any tie-off poles, they could put in an eight-foot wide boat, a 15-foot wide boat, a 30-foot wide boat, and so on. Again, we know as under code we can't exceed the width, but as a practical matter, it's



the same as sometimes when the Board is requiring a retaining wall or fence or something at the end of the buffer, it sort of sets the footprint. But I had contacted the office, I had spoken with Jim, and he confirmed the dock builders position was correct that we would not be in all likelihood allowed to put tie-off poles on the seaward side of the float. So what I ended up doing was turning the float so we could put the tie-off piles on the side. I know the Board had mentioned to the Gruneisel's when they were out there, that based on wind direction it would make sense to put the poles, if there was going to be poles, on the left side of the dock. The reason we can't do that is just because of the configuration of the marsh, which the Board really didn't get to see. If you put the poles on the opposite side, the inside pole would be coming up against the marsh. So that's how we got to the design that is in front of you. I did bring the alternate design just to illustrate what I'm talking about with the "L" shape. Basically you would be tucked in here with an "L" shape float. And then we would be putting these two poles 15 feet off the end of the float. And that would establish your fixed footprint and the waterway.

TRUSTEE KING: You can't do that by code.

MR. HERRMANN: Which leaves us with that configuration.

TRUSTEE KING: The code says no pole seaward of the float.

MR. HERRMANN: I understand that. I just wanted the Board to understand where this design evolved from. Because if you consider this design relative to a dock that sticks out, it's the same imposition on the shoreline. We are within the one-third.

TRUSTEE BREDEMEYER: Why couldn't they have a float that was narrower and slightly longer, then they could tie off when the wind was, in other words move their boat from the seaward side around to the leeward or the shore side with a float that would be a 4x25 or 4x27 or something like that. Whatever, the equivalent of 120 square feet. If the vessel is a prudent size vessel for that waterway, they can have a slightly narrower floating catwalk and then when the winds are coming around to the northeast they simply could shift their boat in around the inside of the float and tie it off.

MR. HERRMANN: Are you talking about with a perpendicular configuration?

TRUSTEE BREDEMEYER: No, I'm talking about with an "L" configuration.

MR. HERRMANN: Okay. I mean, in that case you can go with the standard design.

TRUSTEE BREDEMEYER: I don't know what length boat they have. In other words, when you put it on an "L" you lose the width of the ramp. It's just a matter if they wanted to configure it so it's slightly narrower, say five, and five-and-a-half feet, to go a little bit longer and they could simply move their boat around on a hard wind. I don't think the Board wants to see tie-off piles.

MR. HERRMANN: Would the Board, in lieu of the tie-off piles, would the Board consider going with an "L" configuration but



with a dolphin pole, second dolphin pole on either side of the float? In other words would be it would be this -- just trying to get stability from somewhere -- it would basically be this design but without the tie-off poles.

TRUSTEE KING: I can't see it.

MR. HERRMANN: Sorry. I could hardly see it and it's right in front of me.

TRUSTEE KING: (Perusing). I think what he's asking is can they use dolphins to hold --

TRUSTEE BREDEMEYER: To stabilize, yes.

TRUSTEE KING: What is on the straight out proposal, the seaward end of the dock is how far across the creek?

MR. HERRMANN: 33 feet. It's the same extension.

TRUSTEE KING: How does that compare to one-third of the way across.

MR. HERRMANN: It's on.

TRUSTEE KING: It's just one-third.

MR. HERRMANN: Yes, if I go to --

TRUSTEE GHOSIO: It's what, 99 feet across?

MR. HERRMANN: Well, 132, a third of 132 is about 43-and-a-half.

We are proposing going out about 33, with the current configuration. I don't see the overall intrusion on the creek with respect to the 1/3 rule as really being problematic here. It sounds like you are coming from a position of having this policy against setting these poles out on the outside. So if the Board is -- what I'm hearing is the Board doesn't really have an ideological problem with the dock here but with the addition of the tie-off poles on the outside.

TRUSTEE BREDEMEYER: That's reasonably accurate.

MR. HERRMANN: So if we could go with this other proposal and the Board could at least allow the dolphin poles on the float, we can give that a shot to see how it works out.

TRUSTEE KING: It would be an "L" configuration or a "T."

MR. HERRMANN: An "L."

TRUSTEE KING: So it would be like the one further to the north.

MR. HERRMANN: Yes.

TRUSTEE KING: And it would have two pile dolphins holding the float in place?

MR. HERRMANN: Correct.

TRUSTEE KING: I think that's the way to go.

MR. HERRMANN: Without outside poles.

TRUSTEE KING: Because that actually brings the structure in further, doesn't it.

MR. HERRMANN: Absolutely it would. Because the way -- and it's always the same dilemma, when you go perpendicular or parallel, when you go perpendicular because of the DEC requirements for the minimum water depths, you have to push the whole float out farther, and because it's perpendicular, the whole structure ends up going out farther. It just so happens they don't have issues with water depth here because of the way the property has been historically maintained and dredged.



TRUSTEE BREDEMEYER: I think that configuration would allow us to deal with the inconsistency because we are definitely reducing the footprint over public bottom and we can, with the addition of flow-through over the vegetated section I think we would be able to bring it into conformity with the code and the LWRP.

TRUSTEE KING: It would be quite a bit closer to the shoreline.

TRUSTEE DOMINO: Does your calculation of the one-third include the beam of the boat?

MR. HERRMANN: Well, I'm just giving you a mathematical calculation of the width. So we understand that once you get that one-third, both the dock and the boat would have to fit inside that, yes.

TRUSTEE KING: So if you turn that into an "L" configuration, it's quite a bit shorter than going straight out.

MR. HERRMANN: That's correct. And again, that was the original design. Where it fell apart and turned into what you saw staked or sort of saw staked, and what is in the application, was just the issue with the tie-off poles.

TRUSTEE BERGEN: Rob, just to clarify, I fully support this "L" shape proposal. But now your boat will be a beam to east northeast winds that come in through the mouth of that creek. Just so your clients know that. Because what I heard probably 15 minutes ago was the concern of the winds on the position of the boat.

MR. HERRMANN: Correct. That's why they wanted the tie-off poles. So I think what we would have to do is just, with the understanding of those parameters, come back to you with the best "L" design and let you look at that and move on it. So I don't know if how you want to handle that.

TRUSTEE BREDEMEYER: Approve subject to plans?

TRUSTEE KING: I would rather table it and have it re-staked. Re-stake the position of it, Rob. I think it's about a 33 foot main hull. I talked with the owner. I met him out there. So you probably have a ten-and-a-half, 11 foot beam.

MR. HERRMANN: That's what they just said.

TRUSTEE KING: So my concern, the in and out, you might be pushing the envelope with the length of the boat. Because you have a 20 foot float that's almost to the extreme, you can't tie a 33-foot boat up so it fits into the slot of a 20 foot. So some of it will stick out. I think you are much further ahead with the "L" shape and two poles.

MR. HERRMANN: So let us go back and design with those parameters in mind and we'll just resubmit. And we actually just missed you the day you were there. And the DEC had been out around the same time, and they were generally comfortable with either configuration. So they basically said work it out with you and then they would go from there.

TRUSTEE KING: Can you put a stake on either side, on the seaward side of the float.

MR. HERRMANN: Yes.

TRUSTEE KING: And we'll look at it. It sounds reasonable.



MR. HERRMANN: So we'll have that for your November field inspections.

TRUSTEE KING: Yes.

TRUSTEE BREDEMEYER: Any additional comments?

(No response).

Hearing none, I'll make a motion to table the application.

TRUSTEE DOMINO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE DOMINO: Number four, Patricia C. Moore, Esq. On behalf of **ROBERT TAPP & NICHOLAS J. ELLIS** request a Wetland Permit for the existing 5' stairs from bulkhead to beach; existing 3.5'x20' beach stairs from top of bank to bottom of bank; existing 76 linear foot bulkhead with angled return; existing natural locust post arbor at top of stairs and as supports for bottom of existing beach stairs; existing 4' wood gang-planks as boardwalk; existing slate pavers on sand as patio; slate pavers as stepping stones; existing field stone retaining walls along natural contours; existing loose oblong in shape @8' slate patio; existing 25'x18' patio seaward of house made of concrete pavers with 4" spacing for drainage; and for brick steps off existing porch. Located: 275 West Road, Cutchogue.

The LWRP coordinator found this to be inconsistent, noting that all structures were constructed after 2007. And recommended that the slope of the land direct storm water away from the bluff. The Conservation Advisory Council voted to support this application with the application of best management practices. They expressed a concern about a chain-link fence at the east border of the property. The Trustees field inspection on October 9th noted it should add language okay for hard pruning of locusts.

Is there anyone here to speak to this application?

MS. MOORE: Good evening. Patricia Moore on behalf of Mr. Tapp and Mr. Ellis. I have the clients here as well, so if there are any specific issues, we can address them. Actually, I don't see a picture, but the work that was done here was post the demolition of an existing house that was very close to the top of the bank. That house was demolished and moved back, and the new house was constructed landward of the existing. So most of this landscaping occurred as a result of the disturbance that occurred during the relocation of the house further back. Timing would have been -- when was the house done? 2007. We went to the Trustees Zoning Board, it was a process for the reconstruction of the house.

The comments, I don't know if Mr. Terry went to the property to take a look, because all the landscaping, all the structures, everything is actually designed very sensitively and designed to prevent the water from draining anywhere near toward the bank or the beach. It's actually very natural, and all the water between the new house that was constructed with the new drywells that were put in and pervious surfaces and natural



vegetation, it is actually all very consistent. So I don't know if he was looking at just aerials, which would not show the topography, versus the actual site conditions, which are very nice.

TRUSTEE DOMINO: I believe he was using Google Earth.

MS. MOORE: Yes. On a flat screen you would not notice the topographic features here that actually retain all the water, so. The Board was there and I think they were, well, I don't know, two, three Board members were there? I forget how many. At the field inspection.

TRUSTEE BERGEN: I went out and looked at it subsequent to the rest of the Board.

MS. MOORE: So I'll answer any questions you might have. Yes, the locust trees, I think, were growing in the sand. That was something that we can include in the permit, thank you, very much, and we'll do that as the weather and timing permits, so.

TRUSTEE DOMINO: Any other questions or comments from the Board?

TRUSTEE KING: I didn't have any issues with anything there.

TRUSTEE BREDEMEYER: I didn't either.

TRUSTEE DOMINO: Hearing no further comments, I'll make a motion to close this hearing.

TRUSTEE BERGEN: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE DOMINO: I'll make a motion to approve this application as stated, noting that it's okay to hard prune the locusts, and that doing so will bring this into compliance with the LWRP.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE GHOSIO: Number five, Suffolk Environmental Consulting on behalf of **PARADISE POINT ASSOCIATION** requests a Wetland Permit for a ten (10) year maintenance permit to maintenance dredge the channel leading into the boat basin to a maximum depth of four feet (4.0') during low tide, and will occur within two (2) areas containing +/-4,000 square feet which will result in +/-700 cubic yards of resultant dredge spoil to be deposited on site. Located: Basin Road, Southold.

The LWRP coordinator found this to be consistent with the LWRP. The Conservation Advisory Council resolved to support this application with no stipulations or comment. I do have a letter that was received on October 15th that I'll read into the record. It is from Mr. Victor Zupa.

Dear Mr. King, my wife and I received the attached notice of application for the Paradise Point Association in which it applies for a dredge permit as owner of the basin. As you know, this has been an ongoing misrepresentation of the association. The basin is and since 1676 always has been owned by the Town of Southold under the Andros Patent. This matter has been tediously examined and corrected through the administrative process and litigated at great expense by Southold Town, the State of New York, and by us. In 2005, the Supreme Court unequivocally ruled



that the basin is owned by the town under an Andros Patent.

Without reading the whole letter in, that's essentially what it is.

Though this past May we discovered that the association had the tax roll changed again. The result was review by the Town Attorney and the attached letter from the tax assessor to correct the roll, so show proper ownership in the Town Trustees. I do have a letter here dated May 16th, 2013, from Robert Scott, Chairman of the Town Assessors, and it says: To whom it may concern, concerning the underwater land of the basin at Paradise Point, the ownership of the above-referenced property will be changed to the Town of Southold after July 1, 2013, as directed by the Southold Town Attorney's office. If I may be of any further assistance, please feel free to contact my office.

Okay, we were out there and we took a look at this, so of course we are familiar with it. Is there anybody here who would like to address this application?

MR. ANDERSON: Bruce Anderson, Suffolk Environmental Consulting, for the applicant Paradise Point Association. The application is to dredge an area, actually two areas that became filled in as a result of the storm. They are not navigable. This is an area that has been dredged numerous times. The dredge spoil would be placed within the western jetty area and the areas adjacent thereto. I'm not hearing any objection whatsoever to the issue of the dredging. What I'm hearing tonight is just an opinion as to ownership.

The only clarification I could offer in terms of ownership would be just two items. One is a deed and the second is a tax bill that is paid, which I'll hand up to the Board. And what I would suggest, if that's still an issue, that maybe legal counsel from the association might meet with the Town Attorney and discuss it. I'm really not here to get into issues of title other than to provide you with a copy of deed and to note that taxes are apparently being paid by the association. So I would really prefer we discuss the dredging project. If there are any questions on there, I'm here to answer them.

TRUSTEE BREDEMEYER: You are aware issues of title relate to fees charged for removing public bottom.

MR. ANDERSON: I'm aware of that.

TRUSTEE GHOSIO: I think part of the point Mr. Zupa is bringing forth is that how can we issue a ten-year maintenance permit to the association if in fact they don't actually own it? Number one. And if we issue that permit, does it by default recognize them as the owners. Or can it be used as proof to recognize them as the owners. That's the issue here.

MS. HULSE: The ownership has been established to the Trustees, so there is no question or opinion, that it's not an issue, it's owned by the town. The issue, I think Trustee Bredemeyer hit the nail to the head, the issue is going to be the fees associated with that, if the dredging is approved by this Board.

TRUSTEE BERGEN: There are other locations within town



interfaces that are dredged, that are owned by the Trustees, that are dredged, that we've issued permits for. So I agree, I think the ownership has been litigated and it's not an issue. It belongs to the town. But it will be the fees associated with the material that is the obvious issue here.

MR. ZUPA: If I may. Victor Zupa. The issue of ownership is not just a theoretical, non-practical ownership. I know the Board doesn't really want to get involved with inter-association disputes. But since 2002, the association claimed ownership of the basin. They said they had the right to charge my wife and I rent for a private dock. They made other charges claiming it's a common area. They actually wanted to restrict the use of our boat from our own private dock which we maintain. So we finally went to litigation on that point, all this came in, and the issue is now practical because their policy now is when you put a house up for sale, they put a condominium lien on it, by which you get no notice. It's an illegal condominium lien. There is no condominium there. It's an unlawful lien. And that lien is imposed because of their claim that they are charging us for use of the basin. We are actually in litigation with the association in which the basin they claim is owned by them and is a common area for which we have to pay assessments and fees. And which they impose a lien. So that's what really the practical issue is, is their creation of ownership and a lot of different properties. The association virtually owns nothing in that area except the roads. They do not own that. The representative here, I'm sorry, I think Bruce, from the association, is correct. I don't object to the -- I looked at the plan. It appears to be a good plan. I think spoil should be deposited in the jetty. I think that's a good solution. I don't know if the DEC would approve of that. But the issue of the ten-year permit is objectionable because, again, this creates this illusion that the association will advertise that they own the basin.

When we applied for the permit back in 2004 or 2005, we were just given a two-year permit. Which we renewed. So that is, I don't know why the association doesn't now just get a more limited permit than ten years. That's the only thing I object to is the ten-year permit. If you give them a lesser permit which they could renew at a later time.

In the past what happened is they decided not to dredge and we had to ply for a permit ourselves and do our own dredging. And, by the way, they refused to pay for the dredging and permit fees that we incurred, and they refused to pay for any of the re-bulkheading or restoration that we did on the canal or the basin. But at the same time they charge and assess us fees for anything they do, and impose a lien on our property. A condominium lien. There is no condominium there.

MS. HULSE: Mr. Zupa, I don't mean to interrupt. This is not really relevant.

MR. ZUPA: Correct. But I wanted to give a background to it. It's not just a theoretical objection to ownership. It's a practical aspect.



MS. HULSE: Exactly. That's why I stated that. It's not theoretical. And it's also, I think the point needs to be made, there is no illusion created or perception created because of the length of the maintenance permit, if one is given. The ownership is established. There is no illusion created. I know what you are saying, but that, legally, that is not a basis for the Trustees to decide the length of the permit. If they feel comfortable giving a ten-year permit or two-year permit, no permit, that's within their purview to do. The issue as to the bottom owned by the town has been established and that is recognized by this Board. And I think that has been made clear.

MR. ZUPA: Unless have you any other questions, I don't have anything else to mention.

TRUSTEE GHOSIO: Any other questions or comments from the audience?

(No response).

Any questions from the Board?

TRUSTEE BERGEN: Just in the resolution there is an appropriate fee paid as per the Town Code for the material that will be removed.

TRUSTEE BREDEMEYER: I guess I'm a little uncomfortable with a ten-year permit, under the circumstances. I think that would allow continuing operation for removal of town bottom. I would prefer to see the usual permit, two-year permit, where they could always come back for a renewal or extension.

TRUSTEE GHOSIO: That might be the prudent thing to do here.

TRUSTEE KING: I think you are right.

TRUSTEE GHOSIO: Any other comments or questions?

(No response).

I'll make a motion to close the hearing.

TRUSTEE BERGEN: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE GHOSIO: I'll make a motion to approve the application with the following stipulation, that instead of a ten-year maintenance permit, that they have a two-year maintenance permit, and that the appropriate fees will be paid according to Town Code for the material that is removed from the dredging.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE KING: I would like to take a five-minute break.

(After a short recess, these proceedings continue as follows).

TRUSTEE KING: We'll get going again, folks. Under wetland permits, number six, **DANA & MICHAEL SAVINO** request a Wetland Permit to repair/replace existing +/-100' long bulkhead with a 38' north return and a 64' south return using vinyl sheathing; remove and replace existing 100'x21' decking; temporarily remove and replace existing gazebo; and add approximately 275 cubic yards clean fill. Located: 1945 Bayview Avenue, Mattituck.



The LWRP coordinator has found this exempt from the LWRP. The Conservation Advisory Council does not support the application because the square footage of the floating docks exceeds the code. The property is not conforming to any standards or Wetland Code, and there are encroachments on public property. Those are the comments from the Conservation Advisory Council.

Is there anyone here to speak on behalf of or against this application?

MR. HOWELL: Good evening, Chris Howell, on behalf of Dana and Mike Savino.

TRUSTEE KING: We have been out there a couple of times. Our field notes just said we need to discuss it. I know one of the suggestions we had out there was for that bulkhead to be moved landward about ten feet to try and reestablish some of those wetland areas. Can we get an aerial on that, Bob?

TRUSTEE GHOSIO: Yes. That's it right there. As you can see, there is all wetlands until you reach there. It sticks out like a sore thumb.

TRUSTEE BREDEMEYER: Unless the --

MR. HOWELL: To the south side, the right side of the bulkhead, that is where the road ends, and there is runoff right there. So that's a spillway set up. But it's consistent with the shoreline there, to the north side.

TRUSTEE BREDEMEYER: Well, in Mattituck Creek, with dredge operations, historically there were a few properties that the Trustees quit claimed title to lands from dredging operations, but absent a quit claim, this structure is probably on public bottom. And that's a big concern. As much a concern as that it's on vegetated wetland. And it's an opportunity to do the right thing and get it back into conformity. And that would also put it in line with the comments of the Conservation Advisory Council. But of course the owners could, if they provided copies of a quit claim deed and the history of ownership where the Trustees and the Town had transferred ownership through some process previously, then obviously the Board would have to take that into consideration.

TRUSTEE DOMINO: I would like the Board to know I have to recuse myself from this application as I'm related to the plan expeditors.

MS. SAVINO: Dana Savino. I'm just a little confused. I thought this was just a formality, because I originally applied for an emergency permit because the permits were in our name, Michael and Dana Savino. And I did speak to Mr. King going back, because I got my FEMA permits, my emergency permits. And the permits say the dock, the deck, the gazebo, bla, bla, bla, including the existing bulkhead. So when I spoke to Mr. King, he told me just to fill out, first a partial permit, and it should be just, you know, take care of it. Then they looked at it again and they said, oh, no, you need a full permit, get new surveys. And I did all that. And I thought this was going to go right through, because I should have had my original Hurricane Sandy permit.

TRUSTEE KING: Well, the first time we went down there, we didn't feel it was storm damaged, the bulkhead.



MS. SAVINO: The tie-rods were all broken and all the sand is gone from underneath the bulkhead. It's very hard to see. If you bring an expert down there he'd show you it's from Hurricane Sandy.

TRUSTEE KING: I'm pretty familiar with the creek, and I know the wind direction during the storm is from out of the south, which would not affect you at all, other than the floats. So there is no wave action coming in at the bulkhead at all. That I know.

MS. SAVINO: All the water came up and the sand came out.

TRUSTEE KING: Oh, I know there was high tides. Believe me, I know that. Our concern is, I don't even know how this was ever permitted to begin with. And I think this is a time we can maybe fix something that should be fixed, by backing that in ten feet and re-establishing that wetland along there.

MS. SAVINO: I'm confused because I have the permits in my name. You guys transferred them to me.

TRUSTEE KING: Because like Jay alluded to, this may be public property where their deck is. We would have to do a title search on it and check out the meets and bounds. Because like Jay said, there are many properties in Mattituck Creek. Mattituck Creek years ago was much wider than it is now, but it was very shallow. So when they dredged it, they pumped the dredge spoils up on the sides. So we have seen properties now where the ordinary high water mark say the in 1950's was 20 to 30 feet landward of where it is now.

MS. SAVINO: I understand that but --

TRUSTEE KING: So what happened on these instance, the Trustees issued quit claim deeds to the upland owner giving him ownership of that property. And if there is anything in your records, I don't know, that would indicate you actually own that. That's the issue. We have to go --

MS. SAVINO: This does not look like an ordinary deck, dock, bulkhead that, you know, that everybody else has. So I believe there was extensive research to get this all approved and I should not be the one to pay for it.

TRUSTEE KING: I don't know when this was built.

MS. SAVINO: 1988. And the bulkhead was going back in the 70's or 60s.

TRUSTEE KING: Because I have not researched this at all, to be honest with you, as far as looking up old permits. I know there was some problems with the DEC there years ago. From the previous owners. Not from you people. There were issues over this with the DEC. I don't know how they were resolved.

MS. SAVINO: But they were resolved.

TRUSTEE BREDEMEYER: While you are entertaining a major bulkhead construction, I think usually the Trustees recognize people want to have areas where they could have decks and have entertainment and, you know, have their views and such. Usually we try and preserve as much of the deck and surface area, and that basically, I think the Board would be looking just to have the accommodation of trying to protect that intertidal marsh. It's a highly productive marsh. When we were there last fall, early



winter, after Superstorm Sandy, the place is just full of oysters, it's a very productive marine environment, so we are trying to enable that. At the same time the Board wants to enable you to have the facilities that you have there. It's just a matter of trying to accommodate both of those needs. So I'm not, I'm just speaking for myself now, but we are trying to meet our obligation that we bring things back in with the general flow of the shoreline and our coastline, but we also provide for marine habitat. So, I mean, the good part of it would be the retreat; I'm sure we could work something out where you keep your decking and you have several hundred-thousand square feet of prime oyster habitat, where you can put oyster cages out and grow your own oysters and harvest them. You'll have a lot more going on there.

MR. HOWELL: Just so I understand. This bulkhead is in line, I'm looking at the bulkheads down across the way, right off that dock there. This bulkhead is in line with the other bulkheads in the area. Come south. Right there. I just looked at these bulkheads for repair. This bulkhead is in line with these other bulkheads. And one of the issues is an attorney that owns one and the people are from Shoreham, the wood line, the fall off, is real steep there, as far as bringing the bulkhead back. You know, how are we going to support it?

TRUSTEE GHOSIO: Do you have the original permits in there?

TRUSTEE KING: I think this has gone through two or three owners. I would be interested in looking at the meets and bounds on the deed to see where they end up.

TRUSTEE GHOSIO: Mr. Howell, do you have the permits, the original permits?

MR. HOWELL: Yes, sir. For the deck, the dock, the floaters.

TRUSTEE GHOSIO: 1987, En-Consultants was the expeditor at the time. Construct timber dock consisting of 4x35 fixed elevated, extending from the existing bulkhead; 4x16 hinge ramp; 6x50 float and two 6x31 floats; gazebo and a deck. The date is June 25, 1987. And they approved an amendment to extend it. So they are permitted structures from 1987.

MR. HOWELL: And I double checked the extensions, the measurements are all correct. Nothing over.

TRUSTEE GHOSIO: They were allowed extending from the existing bulkhead on that permit.

TRUSTEE KING: So there was an existing bulkhead back then.

MR. HOWELL: I have some correspondence between your office --

TRUSTEE KING: This is for the dockage.

TRUSTEE BREDEMEYER: And not the bulkhead. It went from the --

TRUSTEE GHOSIO: It does acknowledge the bulkhead and allows the deck to attach to it. And the gazebo.

MR. HOWELL: The question on the permitting, I guess was the question was, because the DEC has already approved the bulkhead, I guess it was just a technicality, formality, in that permit, if it listed the bulkhead or not, which the other permit does.

TRUSTEE KING: Is there an original DEC permit somewhere?



MR. HOWELL: Because I have an extension on that as well, to '14.

TRUSTEE GHOSIO: According to this E-mail from December 7, 2012, sent from our office, acknowledges the permit number and the permit for the dock, gazebo and the deck. But they could not find any permits for the existing bulkhead.

MR. HOWELL: Right, which I believe you have now.

TRUSTEE GHOSIO: I don't have the permit for the bulkhead. This is for everything except for the bulkhead. But it mentions the existing bulkhead.

MS. HULSE: It doesn't say permitted, though.

TRUSTEE GHOSIO: No, it doesn't. It just says existing.

TRUSTEE KING: I think we need to look into some of the history here with the permit process on that bulkhead.

TRUSTEE BREDEMEYER: Unless we can come to an accord with them. I think we have to research a little more, maybe.

TRUSTEE KING: I think we have to research it more. So I take it your client is not interested in backing this up ten feet landward.

MR. HOWELL: You just brought it up. So sometimes it takes a little while for, you know, five years, to circulate a little bit. I mean I don't think anybody is against improving the environment. But, you know --

TRUSTEE KING: Why don't we table this.

MR. HOWELL: I have already been in the office, we have already had discussions a month ago. I think this, you know, should have been brought up and researched prior, you know, out of courtesy, at least to me.

TRUSTEE GHOSIO: I don't know what your point is here.

MR. HOWELL: That I have already gone through all this, if there was something that needed to get researched, I could have got a heads up 30 days ago and I could have brought this to somebody's attention.

TRUSTEE GHOSIO: Our field inspection was last week. Wednesday. So I'm a little confused.

TRUSTEE BERGEN: It sounds to me the best thing to do is, number one, for your client to consider what has been said tonight, and whether or not they want, as you had, take a little time to think about whether or not they want to back it up ten feet; at the same time, for the town, the Trustees, to take a look at this a little further, to try find out the history and the property line is recorded in the deed via the meets and bounds so that we can try to figure out if this is on town property or if it's not. If it is your property. That way it clarifies it legally for both sides. For the future.

TRUSTEE KING: That's another thing we should bring up now. The two floats and the sections, I think those are jet-ski floats

MS. SAVINO: Oh, I don't know what's wrong with you. I came down, when I got the permits, Savino, I came down to the town and I paid money to get those jet-ski permits to do that whole thing. And you guys have no record of it?

TRUSTEE KING: I don't think we ever issued any permits for the jet-skis.



MS. SAVINO: The day I transferred the permits in my name, I filled out all this paperwork and I was given jet-ski permits. Whatever they are called, jet-ski floats. I went down there. On the same day that I got the transfer. I filled out all the paperwork. I paid money.

TRUSTEE KING: I've never seen the office lose any paperwork.

MS. HULSE: Do you have a copy of that? Because jet-ski floats are not permitted under the code.

MS. SAVINO: Is that something new? Because whenever I got it transferred, you know.

TRUSTEE KING: I would like to table this and --

TRUSTEE GHOSIO: There are too many questions at this point.

TRUSTEE KING: So we really know what's going on.

MS. SAVINO: That's fine.

TRUSTEE KING: Just give us some time to work our way through it. And please consider what we suggested on moving that whole structure ten feet landward. Environmentally, it really would be a nice thing to do.

MS. SAVINO: The only thing is, I'm just getting a little worried because this was going on since January and it was supposed to be an emergency permit. And then I keep doing everything everybody asked me, I paid two-thousand dollars to get a new survey so you guys have everything nice. I keep doing everything and it keeps, you know, another reason. I had to ask DEC to extend my Sandy permit because it expires October 31st.

TRUSTEE KING: What did they gave you, a general permit under the storm?

MS. SAVINO: Yes.

TRUSTEE KING: That's what I figured. They've given them out a lot of. I'll make a motion to table this application.

TRUSTEE BERGEN: Second.

TRUSTEE KING: All in favor?

(Trustee King, aye. Trustee Ghosio, aye. Trustee Bergen, aye. Trustee Bredemeyer, aye. Trustee Domino, abstained).

TRUSTEE GHOSIO: I would perhaps recommend that when we go out for the inspection next month, maybe we can meet out there.

MS. SAVINO: That would be fine.

TRUSTEE GHOSIO: Bring your permits, whatever permits you have, any paperwork to substantiate your position. And/or give us a copy.

TRUSTEE KING: There is a copy here, there is some paperwork with the deed and stuff. With meets and bounds on it. And the new survey. So we have some stuff.

MR. HOWELL: Do you have the new survey that she is talking about?

TRUSTEE KING: March 6, 2013?

MR. HOWELL: Yes. Basically, just so I know, your suggestion is take the initial design and just move it back ten feet? So the entire design, move it back ten feet?

TRUSTEE GHOSIO: Yes, and reestablishing an intertidal zone. Ten feet of intertidal area, you know, and just basically move that back ten feet.



MR. HOWELL: And we could get a permit tonight to do that?

TRUSTEE BERGEN: We already tabled it.

TRUSTEE GHOSIO: We would have to reopen it.

TRUSTEE KING: I would rather look into who owns the property, too. All right, we'll be out there next month.

TRUSTEE BERGEN: Number seven, Jeffrey Patanjo on behalf of **HUGH MURPHY** requests a Wetland Permit to remove and replace 149 linear feet of deteriorated timber bulkhead with new vinyl bulkhead; install 4'wide stairs to beach; install 7-10" diameter CCA piles along existing bulkhead portion to remain; replace 2-10" diameter storm damaged CCA piles for existing 3'x12' ramp and 5'x20' floating dock; and backfill with approximately 25 cubic yards clean fill behind bulkhead. Located: 3105 Oaklawn Avenue, Southold.

This was deemed consistent and inconsistent under the LWRP. Specifically, the replacement of the two ten-inch diameter storm damage piles for the existing dock is inconsistent. And that the rest of the project was consistent. The Conservation Advisory Council supports the application with a five to ten-foot non-turf buffer and retractable stairs. The Board did go out and looked at this.

Is there anybody here to speak on behalf of this application?

MR. PATANJO: Jeffrey Patanjo, on behalf of the applicant. We are providing a ten-foot non-turf buffer and otherwise it's a remove and replace existing bulkhead and replacement of the existing ramp and float that were lost during the storm. And they are on the property. The ramp itself, actually, is three foot wide by 15 foot long, which is not accurate in accordance with the proposed plans. I don't have an actual ramp size on the plan, but it's three-foot wide by 15-foot along.

TRUSTEE BERGEN: Existing 3x12' ramp and a 5x20 floating dock.

MR. PATANJO: 5x20 is correct, but the 3x15 is on the ramp. I actually went out there and measured it. Other than that, it's remove and replace, support the existing bulkhead, which is, it's tough to explain, but it's angular piece that goes from southeast to northwest. Just add a couple of piles along there to stabilize it. We didn't want to replace the whole section because it's in good shape. The rest is remove and replace with the addition of a nine foot piece at the terminus of the southerly most section. There is a nine foot section we wanted to fill in. Actually if you look at the photo it's all the way to the right of the photo.

TRUSTEE BERGEN: Correct. The Board, when they went out and looked at it, questioned, because that section you just referred to, the nine foot section where the proposed four-foot wide stairs are, and then the section immediately adjacent to that, that juts out, you could see in the last picture, that really those are non-functional at this point, and the Board is suggesting not replacing those, because they are non-functional.



TRUSTEE BREDEMEYER: This piece here has nothing backing it. It's more of a groin.

MR. PATANJO: It's more of a wave break, per say. My client would definitely like, he's an avid kayaker, so wants to be able to have access into the water body via the stairs that I proposed on here, the four-foot wide stairs to the beach area. If anything, can we propose to add in the nine-foot vinyl bulkhead and provide the bulkhead going, I don't know how to explain it here, but say south to north, maybe cut off -- how long do we have here. 34 feet. Maybe put in 20 feet of the bulkhead that is heading down that way, to provide a beach area for him, will allow the wetlands to re-vegetate naturally and will provide a shorter bulkhead in that area. Thereby eliminating some of the bulkhead on the screen here from left to right, about 14 feet of bulkhead.

TRUSTEE GHOSIO: You want bulkhead here, is what you are saying.

MR. PATANJO: If we get rid of some of the bulkhead here, pull it back, so he still has some sort of a bulkhead. We will not put here, come out this way, replace the bulkhead here, put stairs down so he still has some sort of a beach area to get his kayaks down.

TRUSTEE BREDEMEYER: Is the concern beach stabilization?

MR. PATANJO: Exactly. Beach stabilization or beach nourishment.

TRUSTEE BREDEMEYER: So it functions so much like a groin, it would not make it -- well, it is lower there. Okay. I don't have of a problem with that.

MR. PATANJO: If you want me to, I'll pull it back to, I could pull it back to the low tide line.

TRUSTEE BREDEMEYER: That's kind of what we were thinking about.

TRUSTEE GHOSIO: Make it low sill.

MR. PATANJO: Do you want low sill or do you want to keep it the same height? Will low sill really affect anything there?

TRUSTEE BREDEMEYER: You are not putting fill behind it.

MR. PATANJO: No fill on either side. I'll let it re-vegetate naturally.

TRUSTEE BREDEMEYER: This is basically handling as a wave break for stuff coming down the creek, because sometimes you get a fetch --

MR. PATANJO: Exactly.

TRUSTEE BERGEN: What was just brought up, no new bulkheads allowed in creeks. But what this is, is a proposal to replace a pre-existing bulkhead.

MR. PATANJO: And minimizing what was pre-existing.

TRUSTEE BERGEN: In my mind you are trying to maintain that existing beach area with this structure. So if you did a low sill bulkhead from the low tide mark back to the area where these proposed stairs are, that would maintain that beach area.

MR. PATANJO: I can't do low sill there because I have to maintain the house and the foundations of the house along.

TRUSTEE GHOSIO: You are talking about low sill just on the right side of it, correct?

TRUSTEE BERGEN: Correct. That's all I'm talking about.

MR. PATANJO: Are you saying the right side or left side? I can't do right side because I have the house. You are saying



left side low sill?

TRUSTEE BERGEN: In other words, this area we just talked about where we had recommended the total removal of that structure, instead, because you want that existing beach to remain, a low sill bulkhead from the low tide mark in, that would provide you with an opportunity to have that existing beach to remain. And it also at the same time reduced the structure.

TRUSTEE GHOSIO: Probably about right here.

MR. PATANJO: Low sill. What height are you talking about?

TRUSTEE BERGEN: Low sill can't be more than I believe 18 inches above grade.

MR. PATANJO: During tidal changes you'll be above that.

TRUSTEE KING: It floods at high tide.

TRUSTEE GHOSIO: That's the purpose.

TRUSTEE KING: The purpose of low sill is to grow vegetation behind it.

MR. PATANJO: However -- I would agree with that, if it were a straight bulkhead across. However it would have water on both sides of this. So why will low sill affect anything right now?

You have water coming on both sides, so low sill means zero.

TRUSTEE BERGEN: It's essentially a groin right there.

MR. PATANJO: So why can't I keep it same height as the others, for consistency.

TRUSTEE GHOSIO: Because we don't allow it.

MR. PATANJO: Why? Because a low sill means nothing because I'm getting water from both sides. It doesn't affect a thing if I have low sill or full height.

TRUSTEE GHOSIO: This is legal nothing but a groin. A non-functioning groin. Which is why we can't even allow you to replace it.

MR. PATANJO: That's existing.

TRUSTEE BERGEN: Another option is to just move the stairs, relocate them I should say, to the western bulkhead, and adjacent to that beach area so it provides you with access to that beach. Then you just remove, as we originally talked about, those two old bulkheads. You have your access for somebody to walk up and down with a kayak that way, and we remove that structure at the beach, and you'll have access to that beach.

MR. PATANJO: I kind of have to maintain that beach. I think I'm going to lose that beach if I --

TRUSTEE BERGEN: That's why I suggested a low sill bulkhead to allow you to maintain that beach.

MR. PATANJO: Low sill going out the full length of what I have proposed already?

TRUSTEE BERGEN: No, to the low tide mark.

MR. PATANJO: Low sill to the low tide, and low sill is what distance above grade? I've never done one before, bear with me.

TRUSTEE BERGEN: Sure. 18 inches above grade. That's all our code allows for.

MR. PATANJO: What about the bulkhead that runs east/west. Can I



keep that full height? Can I keep my stairs where I am, full height --  
TRUSTEE BERGEN: Well, the east/west bulkhead is the one where the dock comes into?

MR. PATANJO: That's nine foot. Where the stairs are currently.

TRUSTEE BERGEN: Oh, okay. I'm sorry.

MR. PATANJO: If I could keep that full foot height and then from there transverse down to low sill heading north. If that works for you, I would do that. I'll transfer from full height from the bulkhead up here, the nine foot extension, into the, nine foot over, full height, existing height, head down low sill to 18 inches below. And I'll cut it back.

TRUSTEE BREDEMEYER: To mean low water mark.

MR. PATANJO: To mean low water, yes. That solves a lot of issues. I'll get full height on my nine-foot return, get my stairs down to a re-vegetated beach, give him access to his water body. I'll still have a beach. And I get low sill, that gives you intertidal flushing.

TRUSTEE BERGEN: Just speaking for myself, I could go with that.

TRUSTEE KING: As long as that groin gets removed, I don't have an issue, because that whole wetland will fill in as soon as that thing is gone. It would be an improvement. The rest of it as far as the access goes for kayaks, I don't have an issue with.

MR. PATANJO: It gives him access, fills it in and provides me with stabilization, it will establish a beach by way of the low sill bulkhead.

TRUSTEE BERGEN: I just want to check, is there anybody else in the audience who has any comments on this application?

MR. PATANJO: He's in Florida.

TRUSTEE BERGEN: I didn't know if maybe somebody else wanted to come up to the mic and engage in conversation. Okay. Any other comments from the Board on this?

(No response).

TRUSTEE BREDEMEYER: Sounds good. The proposed amendments sound goods.

TRUSTEE BERGEN: I'll make a motion to close this public hearing.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE BERGEN: I'll make a motion to approve the application of Jeff Patanjo on behalf of Hugh Murphy as described with the following conditions: That the ramp, the existing ramp that is in the description 3x12 is adjusted to 3x15. And that the proposed 34-foot vinyl bulkhead running north/south at eastern property line will be removed and replaced with a low sill bulkhead beginning at the landward edge of that corner and proceeding to the low tide mark, no more than 18-inches above grade. And of course all this will be conditioned upon receipt of a new set of plans. And we would be bringing this into consistency regarding replacement of the two piles because we are now permitting them. Apparently they were not permitted earlier. So that would bring it into consistency with the LWRP. That's the existing, what is described as the 34-foot vinyl



bulkhead on the plan will be removed and replaced with low sill bulkhead. That's my motion.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: Number eight, Jeffrey Patanjo on behalf of **JOSEPH GENTILE** requests a Wetland Permit to remove existing timber bulkhead and deck; install new 108 linear foot vinyl bulkhead and 14 linear foot return; install 5' wide IPE deck along the landward edge of the bulkhead; install 32' wide by 14' long aluminum ramp and 6'x20' floating dock. Located: 530 Schooner Drive, Southold.

This application is determined to be consistent with the LWRP. The Conservation Advisory Council performed an inspection and supports the application with a condition of a 15-foot non-turf buffer. The Trustees performed the inspection, there was a question about the permit for the patio. I don't know if we, or if that's just an in-house thing. I don't know if we had a chance to check that. We will.

We had concerns that the proposal seems like this might be actually be filling intertidal wetland, based on the scaling and the visit, and we thought possibly a different configuration could avoid the jogs and the bends and that might permit the configuration of the dock to be tucked in a little more. I see Mr. Patanjo is shaking his head up and down with a smile. MR. PATANJO: Jeffrey Patanjo on behalf of the applicant. The DEC had the same comments as you. I have revised plans. I don't know if this needs to be table and re-presented. I did present the memo to Elizabeth from the property owners association that allows us access to the property. And I believe she has that. I have revised plans. The DEC had the comments as you. I revised the plan to pull back the entire structure. I'll give you revised plans. This will shed a little more clarity on the subject. I pulled back, and if you give me an overview of the property, if possible, on your photos, the DEC opposed to this, this is high tide right now. Low tide the wetlands come in around this area up to the bulkhead. This right here is an elevated catwalk. There is a bulkhead on one side. Water flushes under the dock on the other side. I revised the plans to remove this entire area about 15 feet, 16 feet, 28 feet. Do you have something more?

TRUSTEE BREDEMEYER: This is precisely what we want.

TRUSTEE KING: They are not going back in the water?

MR. PATANJO: No, I already told him to get rid of them.

TRUSTEE GHOSIO: Okay, there you go.

MR. PATANJO: All right, this area here, up to this area, is an existing bulkhead here. Existing walkway. Existing bulkhead. This right here is previously permitted. DEC has that. That's when DEC came back to me. Wetlands come here, as you said. And as you saw in the field. This right here is an elevated



bulkhead. Water flushes underneath it. The full bulkhead coming here, down to the terminus of the property. DEC said no. We don't want that. If you want that, prove to me environmentally that you are right. My original proposal is to fill this in. I'm not an environmentalist, so I said you know what, do you care, Mr. Gentile, if we cut back the proposed bulkhead coming back, we'll remove and replace this piece, come across, we'll cut it back here up to the limits of your floating dock. He wants a floating dock. That's the whole goal of this thing is to get a floating dock. I didn't want to project more into the water body just due to the width there. It's narrow there. So I wanted to have the floating dock in the same alignment as the existing bulkhead. So I said let's cut it back eight feet. That gives you six foot for your floating dock. We have one foot per pile and another foot for play for your hoop and whatnot. I cut it back on the proposed plans that you have right now, remove and replace the existing bulkhead. Come back eight foot out from the existing up to my limit. I have a 6x20 float. 3x14, whatever size ramp, it doesn't matter. The ramp, coming back, remove and replace the rest of the bulkhead. Five foot wide, maybe, five foot wide, around the whole perimeter, ten-foot non-turf buffer. I don't like your 15-foot because I'm already cutting back here. I'll give you another five feet of non-turf. Not filling in wetlands, remove and replacing. Done.

TRUSTEE GHOSIO: Actually it's really a good plan.

TRUSTEE BREDEMEYER: I just have one question for Lori. This is all landward and tucked in more, is there anyone else here to speak to this application? I just want to make sure. The question is, it's substantially what was advertised but it's simply a bit landward and not imposing on a neighbor. It's --

MR. PATANJO: The alignment of the existing bulkhead is the same. It won't be any projection of the boat into the canal. It will be giving you more bay bottom.

TRUSTEE BREDEMEYER: Are you are talking ten foot of additional non-turf buffer --

MR. PATANJO: I'll give you five foot.

TRUSTEE BREDEMEYER: You are proposing five foot. That would have to have the plan addition, in addition, that non-turf, if the Board were to consider that.

MR. PATANJO: I'm already taking away right now in that area that I'm giving you eight feet of additional bay bottom, another five foot of dock, I'm giving you over your 15 feet right there. Well, minus two foot, but --

TRUSTEE GHOSIO: You have to remember the purpose of the buffer has nothing to do with square footage of creek bottom. So we are talking apples and oranges.

MR. PATANJO: So I could give you that and another five foot beyond that.

TRUSTEE BREDEMEYER: That would be ten feet. We heard that. Any other additional comments or questions?

TRUSTEE KING: Much better plan than the first go around.



TRUSTEE BREDEMEYER: Hearing none, I'll make a motion to close the hearing in this matter.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: Whereas this application has been considered to be consistent with the LWRP, we have considered the comments of the Conservation Advisory Council. The revised plan tonight is substantially the same, with major improvements to the proposed description, I would move to approve this application based on the plan date of 10/14/13, with the stipulation that an additional five feet of non-turf buffer be placed landward of the deck.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE DOMINO: Number nine, Niemann Architecture, PC on behalf of **FRANK MARSILIO** requests a Wetland Permit to construct a 140sq.ft. Front entry addition; construct a 70sq.ft. Masonry front porch; remove existing patio and construct a 141sq.ft. Rear porch using composite decking; the installation of drywells for existing one-story dwelling and single car garage; a line of staked hay bales with silt fencing installed prior to and during construction; a +/-700sq.ft. Planted buffer along the most seaward northern side yard. Located: 1080 Deep Hole Drive, Mattituck.

The LWRP coordinator found this to be consistent. The ZBA granted relief according to plans submitted on June 20th, 2013, labeled T-1, T-2, S-1, S-2, EX, and according to the survey by John Metzger, dated October 27th, 2010. This was received by the Trustees office on September 19th, 2013. The Conservation Advisory Council voted to support this application requesting a ten-foot non-turf buffer. The Trustees in their field inspection noted that everything seemed to be okay.

Is there anyone here to speak to this application?

MR. NIEMANN: My name is Kirk Niemann, representing Frank and Karen Marsilio. I think you pretty much summed it up.

TRUSTEE DOMINO: Any questions or comments from the Board?  
(No response).

TRUSTEE DOMINO: Is there anyone else here to speak to this application?

(No response).

Hearing none, I make a motion to close this hearing.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE DOMINO: I'll make a motion to approve this application as submitted.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(ALL AYES).



TRUSTEE GHOSIO: Number ten, William Gorman on behalf of **STEPHEN & AMY LiCATA** requests a Wetland Permit to add two dormers onto roof of existing two-story dwelling; rebuild existing 11'x30' screened porch and add a deck on its roof; and for the as-built 30'x50' patio, 68 linear foot x 2' thick stone walls, 7'x8' fire pit, and 8'x20' pergola. Located: 670 Old Salt Road, Mattituck.

This has been found to be inconsistent by the LWRP coordinator because the structures describe were not constructed pursuant to a Town of Southold Board of Trustees review or permit. It's basically what is existing did not have a permit. The Conservation Advisory Council resolved to support the application with the condition of a drainage plan to include the patio and non-turf buffer to align with the abutting properties to the east. Mr. King did go take a look at this. He noted a ten-foot non-turf buffer as per the ZBA. There is a ZBA determination here. They request a ten-foot non-turf buffer.

With that, is there anybody here who would like to address this application?

MR. GORMAN: Bill Gorman here on behalf of the LiCata's. I guess we just had one issue, that's the ten-foot buffer. With the zoysia grass, I guess I always thought the buffer was to serve two purposes: One to combat erosion and the other to avoid pesticides or rather fertilizers into the water. So we are looking at it as a two-point issue. And as you know, zoysia grass, which this clearly is, you can see from some of the photos that we have, helps tremendously in combatting erosion. The neighbors, in 2011 and 2012, you can see the damage that was done to the neighbors' property, the neighbors who have the ten-foot buffer, two neighbors in a row, versus my client, and the neighbors to the west of them.

TRUSTEE KING: I really don't think this is negotiable. This was imposed by ZBA also, so.

TRUSTEE GHOSIO: There is really no way around it.

TRUSTEE KING: There is not much wiggle room on that.

MR. GORMAN: Okay.

MS. FROST: What are the options for a non-turf buffer?

TRUSTEE KING: You could just leave sand there or gravel or do natural plantings. Basically we want non-turf. That's basically the idea of non-turf

TRUSTEE GHOSIO: And it has to be pervious.

TRUSTEE BREDEMEYER: Stone or pebbles over filter cloth

MS. FROST: Why are the plants different?

TRUSTEE BREDEMEYER: It's just non-turf means you can't have a managed turf area. Because of the cultural requirements of grasses requiring fertilization and possible treatment for insects, because it's mono-cultured. It's a standard requirement on all bayside and waterside applications. So the zoysia is a type of grass and culturally it would be considered a turf area

MS. FROST: The thing is, I'm not a proponent of --

TRUSTEE BERGEN: If you could just step up to the microphone. I apologize. We have to have this on the record. And if you could



just introduce yourself.

MS. FROST: I am Connie Frost, of Connie Frost Garden Design. I have been doing this longer than I want to say. And I'm not a proponent of lawns. For those of you familiar with my work, most of my jobs don't have any lawns. Off the water, on the water. I don't consider zoysia grass a lawn. It does not need fertilizer, it does not need water. That is the difference. Just like the plantings that you would propose, it does not need fertilizer or water.

TRUSTEE BREDEMEYER: I understand what you are saying about the cultural requirements, though in the standard listing of grasses that I see at the community college for their horticultural program, they do have zoysia on the board with the rest of them. They don't say it's not a turf grass. That's just a point of information. It's just beyond this Board to underwrite or re-write a determination of the Zoning Board of Appeals. It's as simple as that.

MS. FROST: Again, I would agree with the lawn. I would never put a lawn there. But, I mean, did you look at the pictures? It's like a mattress.

TRUSTEE KING: Do they mow it?

MS. FROST: They'll mow it, yes.

TRUSTEE KING: That's more like a managed lawn then.

MS. FROST: They cut back shrubs.

TRUSTEE KING: It's really not up for debate. You'll have to go back to the Zoning Board if you want a change.

MS. FROST: What are the alternatives? Deck, stone? What about like a stone patio that is porous.

TRUSTEE GHOSIO: The whole buffer has to be pervious. Completely pervious.

MS. FROST: The entire surface you are talking about, so a deck would be okay?

TRUSTEE GHOSIO: Decking would be depending on what it is and where it is, yes. If it allows for water to pass through, we'll generally approve it.

TRUSTEE BREDEMEYER: But if it were a deck you would have to come back with revised plans showing the deck construction on the plans. And we would have to go back to ZBA with that structure.

MS. FROST: It would all be on grade, probably.

TRUSTEE KING: I mean they made this a condition as part of their relief.

MS. HULSE: We can't deviate from that without going back to the ZBA and getting an approval. This Board is bound by the ZBA decision.

TRUSTEE GHOSIO: This is the ZBA determination. The applicant must install a perpetual landscaped buffer ten-feet in width landward of the concrete seawall. That would eliminate your deck, and we are bound by this. Typically we might allow a deck because it can be determined to be a pervious area. In this particular case, there is no room for that. It must be a perpetual landscaped buffer ten-feet in width.

MS. FROST: Do you have a plant list?



TRUSTEE GHOSIO: There is a plant list in our office with acceptable plants. It's justly just natives.

MS. FROST: Thank you.

TRUSTEE GHOSIO: Are there any other comments from the audience?

(No response).

Any comments or questions from the Board?

(No response).

Aside from the buffer, everything is good, right?

TRUSTEE KING: I didn't have any issues.

TRUSTEE GHOSIO: I'll make a motion to close the hearing.

TRUSTEE BERGEN: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

TRUSTEE GHOSIO: I'll make a motion to approve the application with the stipulation that a ten-foot non-turf buffer which will match the ZBA description, being a perpetually landscaped ten-foot non-turf buffer, be added to the permit. And in doing so makes it consistent with the LWRP.

TRUSTEE BREDEMEYER: Second.

TRUSTEE KING: All in favor?

(All ayes).

TRUSTEE KING: Number 11, **JOSEPH J. D'ANGELO** requests a Wetland Permit for the existing 3'x15' brick and concrete paver pathway leading to a 5'x4' platform; 3.5'x4' steps; 4'x20' catwalk; 4'x12' ramp; and 5'x16' floating dock; and to replace the floating dock and anchor piles in place; and to cover the existing treated decking with untreated lumber. Located: 490 Lupton Point Road, Mattituck.

This was one that has been hanging around for a while. It was found inconsistent with the LWRP. The structures described were not constructed pursuant to a Town of Southold Trustee review or permit. In the event the action is approved, it is recommended the Board require vegetated buffer existing vegetation landward of the tidal wetland boundary. The Conservation Advisory Council moved to support, conditioned upon use of acceptable materials, removal of non-conforming to best practices. Re-vegetate bank and comply with the one-third rule. That was the Conservation Advisory Council comments.

Is there anyone here to speak on behalf of or against this application?

MR. GOGGINS: William C. Goggins, Goggins Associates, 13235 Main Road, Mattituck, New York, for the applicant. Good evening. We had gone over this application, we talked about the fact that Fr. D'Angelo owns the land under the water, not only under the creek there but also the wetlands across the way to where you see the wooded area. And we also discussed the fact that the water to the west there is not navigable water. So no boats can get through because there is no water there, it's so shallow. We also discussed the fact that the structures have been there since the 1970's, early 70s. Father D'Angelo also received letters that the Board has from the property owners to the west stating



that there is no objection to the structures being replaced in kind.

Last time we were here, the Board asked if we could possibly pull the structures back, so Fr. D'Angelo did a bunch of measurements and in order to maintain the boat that he's always kept there since he's owned it, the furthest he can go back is three feet so at low tide the bottom of the boat would just be touching the bottom, or just above touching the bottom of the creek bed, which, again, he owns.

We are asking relief from the one-third rule because the structure has been there since Fr. D'Angelo owned it. The prior owner also had the dock and ramp and so forth there. The only reason we are doing anything now is because Sandy didn't destroy the float but destroyed the ramp going from the catwalk to the float. So we are proposing that we pull it back three feet so that Fr. D'Angelo can still you his goat that he has in the past and try to conform at least in spirit of making it more space to get by with kayaks and so forth.

I think the one-third rule was imposed so that boats could get back and forth through these creeks, because people putting out their docks makes it difficult to navigate. But if you look there on the screen to the west, it's shallow, and right where the arrow is right now, at high tide that's only about two feet in depth. In addition, just past Fr. D'Angelo's, you can see on the screen -- I don't want to be like that last gentleman -- over here is, this is the float and this is where the ramp that was destroyed. As you can see here, this vegetation goes beyond, out beyond, past where the ramp and where he keeps his boat. So these, they are really trees that jettison out into the creek, inhibit navigation themselves. If there was navigation there. And there is none. You can see the property owners to the west has two little rowboats because that's all they can use down there. And it ends right there. There is no more creek there. You see from the pictures earlier, when you look the other way, it's just a very narrow tributary or arm of the creek. And again, on the opposite side it's all wetlands so there are no catwalks or docks or floats, because it's not accessible.

So we are asking that but for the Sandy storm, there would be no change. So we are asking the application be approved with the amendment that we pull back the float back three feet and that Fr. D'Angelo would agree to put in an aluminum ramp instead of what is there.

TRUSTEE BREDEMEYER: Was it that close what we had done --

TRUSTEE KING: Last time we were out in the field we recommended just shortening the catwalk back to the second set of uprights. Which was more than three feet. Probably four or five feet.

TRUSTEE DOMINO: We said four.

TRUSTEE KING: Four feet it was.

TRUSTEE GHOSIO: This post here.

TRUSTEE BREDEMEYER: It was going back to the first post.

TRUSTEE KING: Just remove the four feet there. It's pretty simple to do. And that brings everything back.



MR. GOGGINS: I think that's acceptable. I could see Fr. D'Angelo --

TRUSTEE BREDEMEYER: The other comment I think we had, we feel it's time that tree should be removed.

MR. GOGGINS: It's not on our property.

TRUSTEE KING: Oh, I thought at the last hearing he said it was.

MR. GOGGINS: It is on his property?

TRUSTEE KING: Yes.

MR. GOGGINS: Do you want him to remove it?

TRUSTEE KING: Yes.

MR. GOGGINS: Looks like two of them, right?

TRUSTEE KING: Yes.

FR. D'ANGELO: It's one tree that splits.

MR. GOGGINS: That's acceptable to the applicant. Thank you.

TRUSTEE KING: The only other issue on this was the treated lumber on the float. That should be removed and replaced with untreated.

MR. GOGGINS: He hired a contractor and he assumed the contractor had knowledge, and obviously he did not. He understands.

TRUSTEE KING: It happens.

TRUSTEE BERGEN: Is that just on the float or is that the catwalk, float. Because he said the ramp could be aluminum.

TRUSTEE KING: I think just the float. Just the float. Re-surface the float with untreated material.

MR. GOGGINS: And the vegetation from the prior picture, you could see there is vegetation on the left there.

TRUSTEE KING: Removing those trees will help. Not only in navigation but also with the growth. And they can just be cut to grade. You don't need to dig the stumps out. We don't want you to dig the stumps out. Just cut them to grade. Get rid of the tree.

MR. GOGGINS: Okay.

TRUSTEE KING: And other comments from anybody?

(No response).

Motion to close the hearing.

TRUSTEE DOMINO: Second.

TRUSTEE KING: All in favor?

(ALL AYES).

And can we get a set of plans to show exactly what is going on there?

MR. GOGGINS: Yes.

TRUSTEE KING: I'll make a motion to approve the application with the condition the catwalk is it to be shortened by four feet, and the treated decking on the float is to be removed and replaced with untreated. And the trees that are down in the creek are to be cut and removed. And that's my motion.

TRUSTEE DOMINO: I'll second that.

TRUSTEE KING: All in favor?

(ALL AYES).

MR. GOGGINS: It's the ramp being shortened, not the catwalk, right?

TRUSTEE KING: No, it's the catwalk. That keeps it simple. And that brings it into consistency with the LWRP.



MR. GOGGINS: Great, thank you.  
TRUSTEE KING: I'll make a motion to adjourn.  
TRUSTEE GHOSIO: Second.  
TRUSTEE KING: All in favor?  
(ALL AYES).

Respectfully submitted by,

James F. King, President  
Board of Trustees